# OREGON BULLETIN

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

## General Information

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

## Background on Oregon Administrative Rules

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

## OAR Citations

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

## Understanding an Administrative Rule's "History"

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

## Locating Current Versions of Administrative Rules

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

## Locating Administrative Rule Publications

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

## Filing Adminstrative Rules and Notices

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

## Administratrative Rules Coordinators and Delegation of Signing Authority

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

## Publication Authority

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

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

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**EXECUTIVE ORDER 15 - 17**

**PROCLAMATION OF STATE OF EMERGENCY REGARDING EFFECTS OF WILDFIRE AND DELEGATION OF AUTHORITY TO SUSPEND ADMINISTRATIVE RULES THAT PREVENT, HINDER OR DELAY MITIGATION OF THE EFFECTS OF WILDFIRES**

Pursuant to ORS 401.165, I find that a state of emergency exists in areas of the State ravaged by wildfires with respect to the removal of debris, disposal efforts and septic systems of repairs.

I have previously invoked the Emergency Conflagration Act for the following counties:

On July 30, 2015, I issued Executive Order 15-12 for the Stouts Creek Fire in Douglas County;

On August 13, 2015, I issued Executive Order 15-13 for the Cornet and Windy Ridge fires in Baker County;

On August 14, 2015, I issued Executive Order 15-14 for the Canyon Creek Complex fire in Grant County;

On August 20, 2015, I issued Executive Order 15-15 for the Grizzly Bear Complex fire in Wallowa County; and,

On August 25, 2015, I issued Executive Order 15-16 proclaiming a state of emergency due to imminent threat of wildfire in Oregon.

In consultation with the Department of Environmental Quality (DEQ), I have determined that debris removal and disposal efforts and septic system repairs or replacements in the above-described counties affected by wildfires are being inhibited by certain state permitting requirements, and that this inhibition has occasioned a state of emergency in these counties. Based on the information I have received from DEQ and Oregon Emergency Management, and in accordance with my authority under ORS 401.168(2), I find that strict compliance with certain DEQ rules would prevent, hinder or delay mitigation of the effects of this emergency.

**NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:**

1. Pursuant to ORS 401.035, I delegate to the Director of DEQ the authority conferred under ORS 401.168(2) to issue emergency orders that temporarily suspend such DEQ rules as the Director determines to be necessary in order to make possible or to expedite DEQ-approved operations in response to the wildfire damage in the above-named counties, and to protect public health, safety and the environment during those operations.

The Director of DEQ shall consult with the Governor's Natural Resources Office prior to issuing any order temporarily suspending a DEQ rule pursuant to the authority provided in this Executive Order. The Director of DEQ shall provide a written report to the Governor's Natural Resources Office and to the Environmental Quality Commission concerning the nature and basis of any emergency order issued pursuant to this Executive Order.

The authority delegated by this Executive Order will automatically terminate January 1, 2017, unless otherwise extended or terminated by supplemental Executive Order.

Done at Salem, Oregon, this 10th day of September, 2015.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

**EXECUTIVE ORDER NO. 15 - 18**

**ADOPTING THE OREGON SAGE-GROUSE ACTION PLAN AND DIRECTING STATE AGENCIES TO IMPLEMENT THE PLAN IN FULL**

Whereas the U.S. Fish and Wildlife Service (USFWS) determined in 2010 that listing the greater sage-grouse (sage-grouse) under the federal Endangered Species Act (ESA) was "warranted but precluded";

Whereas the USFWS will make a new listing determination for sage-grouse in 11 western states later this year;

Whereas it is plainly in Oregon's best interests to ensure that the significant investments that Oregon ranchers, communities, tribes, non-governmental organizations, and others have made in sage-grouse conservation are supported, such that economic prosperity and a healthy environment occur hand-in-hand in Eastern Oregon;

Whereas the principal threats to sage-grouse habitat in Oregon are wildfire, invasive weeds, and the spread of juniper;

Whereas the Harney County Soil and Water Conservation District (Harney SWCD) and other SWCDs, local governments and landowners have developed candidate conservation agreements with assurances (CCAA), which provide for ranching operations on non-federal lands to continue in ways that provide for both long-term economic stability and sage-grouse conservation;

Whereas the Oregon Cattlemen's Association has developed a candidate conservation agreement (CCA) for grazing allotments on Bureau of Land Management (BLM) lands that supports the CCAAs developed for non-federal lands, and the federal Natural Resources Conservation Service (NRCS) has committed substantial funding for the conservation measures contained in CCAAs including strategic removal of juniper;

Whereas the CCAAs and the CCAs ensure that grazing operations in Oregon will be managed in a way that is consistent with sage-grouse conservation;

Whereas the Oregon Watershed Enhancement Board has committed to investing at least ten million dollars in priority Sage-Grouse conservation measures over the next ten years, including juniper management;

Whereas Oregon has a long-standing system of Rangeland Fire Protection Associations (RFPAs) that are often first responders to rangeland fires, and the number, enrollment and geographic extent of RFPAs continues to grow and now covers most sage-grouse habitat;

Whereas the Oregon Legislature has appropriated new funding to improve the capacity and effectiveness of RFPAs, along with other investments that address wildfire in sage-grouse habitat;

Whereas the Oregon Legislature also has appropriated significant new funding to help manage invasive weeds and reduce juniper encroachment in sage-grouse habitat;

Whereas ranching is the major economic base for the area of Oregon occupied by sage-grouse, and mining and renewable energy development present important long-term opportunities for economic development and job creation in this area of Oregon;

Whereas significant outdoor recreation including hunting, wildlife viewing, and hiking occurs in and depends on high-quality habitat in the areas of Oregon occupied by sage-grouse, and these activities provide additional economic, social, and other public benefits to Oregonians;

Whereas a federal ESA listing of the sage-grouse in the absence of a state plan likely would interfere with opportunities for future economic development in Eastern Oregon and could threaten the ranching industry in ways that would have significant adverse economic and social effects on Oregon citizens, businesses, and communities;

Whereas the Oregon Department of Fish and Wildlife has established population and habitat goals for the sage-grouse in Oregon that include:

- A population goal to maintain or enhance sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 30,000 birds, over the next 50 years; and

- A habitat goal to retain at least 70% of sage-grouse range as sagebrush habitat in advanced structural stages—sagebrush class 3, 4, or 5, with an emphasis on classes 4 and;

Whereas the Oregon Department of Fish and Wildlife adopted an updated conservation strategy for sage-grouse in 2011;

Whereas the Oregon Fish and Wildlife Commission has adopted supplemental rules to guide sage-grouse conservation and compensatory mitigation for impacts to sage-grouse habitat;

Whereas the Oregon Land Conservation and Development Commission (LCDC), working closely with county governments and others, has adopted new rules designed to steer future development away from important sage-grouse habitat—supplementing Oregon's already strong land-use system that generally directs most development to urban areas;

Whereas the Oregon Sage-Grouse Action Plan has been developed collaboratively through the work of the SageCon Partnership over the last three years, involving landowners, non-governmental organizations, local governments, and state and federal agencies;

Whereas the State of Oregon has worked closely with the federal Bureau of Land Management (BLM) to align the Oregon Sage-Grouse Action Plan with many elements of the new Resource Management Plans for the five BLM districts within Oregon;

Whereas the Oregon Sage-Grouse Action Plan, the BLM Resource Management Plans, and the CCAAs and CCAs entered into by private landowners effectively align conservation strategies for sage-grouse and management of sagebrush habitats across private and public lands across all sage-grouse habitat in Oregon; and

Whereas, effective implementation of conservation strategies and actions associated with the Oregon Sage-Grouse Action Plan will require engagement, functional alignment, and coordination across state, federal, tribal and private land ownership boundaries among all stakeholders to realize the social, economic and ecological benefits of a comprehensive approach to sage-grouse conservation and rangeland health.

**NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED THAT:**

1. The Oregon Sage-Grouse Action Plan is adopted as the plan for the conservation of sage-grouse in Oregon.

2. All state agencies shall carry out the actions described in the Oregon Sage-Grouse Action Plan to the full extent of their authorities and funding.

3. Specifically, and without limitation to the foregoing paragraph 2, the following actions shall be taken:

A. The Oregon Department of Forestry (ODF) shall provide technical and financial support to RFPAs to improve their capacity and effectiveness in controlling and limiting the adverse effects of rangeland fire on sage-grouse habitat on both federal and non-federal lands. Working collaboratively with RFPAs and the BLM, ODF shall develop a Memorandum of Agreement to assist in the coordination of rangeland firefighting and to protect the safety of those participating in such efforts.

B. The Oregon Department of Land Conservation and Development (DLCD) shall maintain a central registry of development on all lands within sage-grouse habitat in coordination with the BLM and county governments that both establishes the baseline level of development within each Priority Area for Conservation (PAC) and that tracks the location and geographic extent of new development in each PAC over time.

C. DLCD shall have the responsibility to coordinate the actions of Oregon agencies in implementing the Sage-Grouse Action Plan, under the supervision of my Natural Resources Office (GNRO).

D. All state agencies that carry out, fund, or permit actions within sage-grouse habitat—including but not limited to the Oregon Water Resources Department, the Oregon Department of Transportation, the Department of State Lands, the Department of Geology and Mineral Industries, the Oregon Department of Energy (ODOE) and the Energy Facility Siting Council, the Oregon Watershed Enhancement Board (OWEB), the Oregon Department of Agriculture, the Oregon Parks and Recreation Department, and the Department of Environmental Qualityshall adopt or update their state agency coordination plans and agreements with DLCD pursuant to ORS 197.180 and OAR Chapter 660, Division 30 to ensure that such actions comply with the LCDC Sage-Grouse Conservation Rules (OAR 660-023-0115) adopted to implement LCDC Goal 5 (Significant Natural Resources). State agency actions affecting land use also shall be consistent with the ODFW Sage-Grouse Mitigation Rules adopted at OAR 635-0140-0000 thru 635-140-0025. To the extent that an agency's regulatory program needs to be updated to be consistent with the LCDC and ODFW rules, the agency shall complete that updating by no later than July 1, 2016.

E. ODFW, working with the BLM and other federal, state, and local entities, shall have the responsibility to coordinate mitigation for impacts to sage-grouse and sage-grouse habitat in a manner consistent with the Sage-Grouse Action Plan and the agency's mitigation rules at OAR 635-140-0000 thru 635-140-0025. ODFW shall also work with ODOE, OWEB, Business Oregon, and other relevant state, federal, local, private and non-governmental entities to evaluate approaches and mechanisms for funding advance mitigation, with the intent of ensuring sage-grouse mitigation credits are available in the State's in-lieu fee program and facilitate responsible economic development in the range of the sage-grouse.

F. DLCD, in cooperation with ODFW local governments and the counties shall prepare a report on at least a biennial basis beginning on July 1, 2016, providing information regarding the status and trends of work to reduce threats to sage-grouse and sage-grouse habitat, including but not limited to work to reverse the spread of juniper and invasive plant species, work to improve pre- and post-fire resilience, the amount of direct development in each PAC over the preceding two years, the amount and types of compensatory mitigation, the results of surveys of sage-grouse population and habitat condition and trends, areas and/or elements where the Sage-Grouse Action Plan is and is not functioning as

intended, and recommendations for improving the efficacy of the Sage-Grouse Action Plan. DLCD also shall include in the report an evaluation of the economic effects of implementation of the Sage-Grouse Action Plan on communities within sage-grouse habitat.

G. OWEB shall work with the NRCS, ODFW, and my Natural Resources Office to assure that its funding commitments are directed to supporting actions that reflect the priorities identified in the Sage-Grouse Action Plan, and that monitoring of the effectiveness of these investments is sufficient to evaluate overall Plan effectiveness and adapt the Plan as appropriate.

H. DLCD and ODFW, working with my Natural Resources Office, in cooperation with other participants, shall develop by July 1, 2016 one or more memoranda of agreement between federal agencies, state agencies, local governments, and other partners that establish:

i. How the BLM, DLCD and the counties will coordinate their administration of the central registry of large-scale development within sage-grouse habitat;

ii. How ODFW will coordinate administration of the landscape-level mitigation program for sage-grouse with the BLM, USFWS, counties, and other partners;

iii. How ODFW will ensure early, efficient and constructive participation of its staff in local permit reviews of projects subject to Oregon Administrative Rules, Chapter 660, Division 30, or other applicable local ordinances where a county has adopted its own land use regulations implementing that rule; and

iv. How state and federal agencies will align their conservation investment priorities and programs for sage-grouse in cooperation with local governments, tribes, landowners, conservation organizations, and other stakeholders.

I. Every two years, beginning in May of 2016, DLCD, ODFW and OWEB shall prepare a proposed budget for the coming biennium that identifies and prioritizes resources required to continue the successful implementation of the Oregon Sage-Grouse Action Plan.

J. In the event of any inter-agency disputes regarding the administration of the Sage-Grouse Action Plan or this executive order, the agencies involved shall first attempt to resolve the dispute at the line staff level. If line staff are unable to resolve the dispute, the matter shall be elevated to the directors of the agencies. If the agency directors are unable to resolve the dispute, the matter shall be elevated to my Natural Resources Policy Advisor for resolution.

K. In the event that the USFWS determines that a listing of sage-grouse as threatened under the ESA is warranted, ODFW, DLCD, and my Natural Resources Office shall work with the USFWS to develop and implement a federal protective regulation under section 4(d) of the ESA (16 U.S.C. § 1533(d)) such that the "take" prohibition of the ESA will not apply to the sage-grouse-related impacts in Oregon from specified activities addressed by the Oregon Sage-Grouse Action Plan so long as Oregon is fully implementing Action Plan provisions specific to those activities.

This Executive Order shall remain in effect until it is otherwise modified, amended or terminated.

Done at Salem, Oregon, this 16th day of September, 2015.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

**EXECUTIVE ORDER NO. 15 - 19**

**DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN MARION COUNTY DUE TO DROUGHT, LOW SNOW PACK LEVELS, AND LOW WATER CONDITIONS**

At the request of Marion County (by Resolution No.15R-46, dated September 3, 2015) and based on the recommendations of the Drought Council and the Water Availability Committee, and pursuant to ORS 401.165 and ORS 536.740, I find the continuing dry conditions, low snowpack, and lack of precipitation have caused a severe, continuing drought to exist in Marion County, which have led to natural and economic disaster conditions in Marion County.

Projected forecasts are not expected to alleviate the severe drought conditions, and the drought is having significant economic impacts on agricultural and natural resources in Marion County.

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

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

**IT IS HEREBY ORDERED AND DIRECTED:**

I. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources to mitigate drought conditions and assist in agricultural recovery in Marion County.

II. The Department of Water Resources and the Water Resources Commission are directed to coordinate and provide assistance to water users in Marion County as they determine is necessary and appropriate in accordance with ORS 536.700 to 536.780.

III. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Marion County.

IV. All other state agencies are directed to coordinate with the above agencies and to provide appropriate state resources as determined necessary to assist affected political subdivisions and water users in Marion County.

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

Done at Salem, Oregon this 16th day of September.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

**EXECUTIVE ORDER NO. 15 - 20**

**DETERMINATION OF STATE OF EMERGENCY IN BAKER AND GRANT COUNTIES, DUE TO WILDLAND FIRES BEGINNING AUGUST 10, 2015**

Pursuant to ORS 401.065, I find that severe wildland fire damage, which began August 10, 2015 and continues to this day, has created a threat to life, safety and property in Baker and Grant Counties. Extensive wildland fires, exacerbated by heat, high winds, and drought, resulted in significant damage to the state roads on the federal-aid highway system. Damage may have also occurred on the local federal-aid roads within these counties. The current estimate to the state highway system in these counties totals $2,500,000.

**NOW THEREFORE IT IS HEREBY ORDERED AND DIRECTED:**

The Oregon Department of Transportation shall provide appropriate assistance and seek federal resources to effect repair and reconstruction of the federal aid highway system in Baker and Grant counties.

Done at Salem, Oregon, this 23rd day of September, 2015.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

## REQUEST FOR COMMENTS PROPOSED AMENDMENT TO PROSPECTIVE PURCHASER AGREEMENT FOR TROUTDALE REYNOLDS INDUSTRIAL PARK

**COMMENTS DUE:** 5 pm, Monday, Nov 2, 2015
**PROJECT LOCATION:** 5100 NW Sundial Road, Troutdale
**PROPOSAL:** The Department of Environmental Quality seeks comments on its proposed amendment to the consent judgment prospective purchaser agreement with the Port of Portland for real property located at 5100 NW Sundial Road, Troutdale, Ore. The amendment 1) clarifies that land under a portion of the Sundial Road right of way is part of the agreement; 2) specifies that notice to occupants and workers is to be accomplished by providing a copy of the Contaminated Material Management Plan; 3) expands the scope of liability release from the allowed by the original 1995 statute (ORS 465) to also include protections afforded by statutory amendments passed in 2011 (ORS 466 and 468B); 4) clarifies that DEQ and Port intend the consent judgment be construed as a judicially approved settlement, adding language from the current consent judgment template that was developed subsequently to entry of the original agreement.

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

The proposed amendment to consent judgment prospective purchaser agreement will expand the Port's release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990 to also include protection under 466.640 and 468B.310, regarding existing hazardous substance releases at or from the property. The proposed amended consent judgment will also expand the Port of Portland's third party liability protection.
**HOW TO COMMENT:** Send comments to DEQ Project Manager Erin McDonnell at 700 NE Multnomah, Suite 600, Portland, OR 97232 or mcdonnell.erin@deq.state.or.us. For more information contact the project manager at 503-229-6900.

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 154 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI 154 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=154&SourceIdType=11.

If you do not have web access and want to review the project file contact the DEQ project manager.
**THE NEXT STEP:** DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed amendment to the consent judgment prospective purchaser agreement, which will then be filed with the court.
**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 WEYERHAEUSER — BLY SHOP, BLY, OREGON

**COMMENTS DUE:** October 30, 2015
**PROJECT LOCATION:** Tax Lot 100, Bly, Oregon
**PROPOSAL:** DEQ proposes to make a conditional no further action determination for petroleum contamination found in shallow soil and groundwater from a truck fueling and maintenance shop that occupied the site until 1992.
**BACKGROUND:** The Oregon Department of Environmental Quality recently reviewed information about petroleum contamination on the former Weyerhaeuser Bly Shop property. The site was operated as a truck fueling and maintenance shop. Petroleum lubricants, fuels, and limited chlorinated solvents were used and incidentally spilled at the site. Site cleanup spanned three years, between 2011 and 2013. Soil was removed from the former shop and fuel storage areas and treated on site.

A small amount of petroleum contamination remains in shallow soil and groundwater at the site, and off-site migration of contaminants is unlikely. DEQ has concluded that residual contaminant levels are low and do not threaten human health or the environment.

DEQ believes that cleanup efforts at the Bly Shop have been adequate and no further action is needed to investigate or clean up this property. To ensure that future development of the former Bly Shop property does not lead to unanticipated contaminant exposure, DEQ will impose the following conditions on current and future owners of the property:

1. Current property owner has recorded a DEQ-approved Easement and Equitable Servitude against the deed on the property.
2. Current and future property owners will refrain from use of shallow groundwater on the property.
3. Current and future property owners will maintain fencing around the property.
4. Current and future property owners will follow the DEQ-approved Contaminated Media Management Plan for any excavation work performed on the property.

The basis for DEQ's findings is provided in a memorandum that can be downloaded by entering site ID #661 into DEQ's online database at http://www.deq.state.or.us/lq/ECSI/ecsi.htm.

DEQ also proposes to list this 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 October 30, 2015. Comments should be submitted to DEQ's Eugene office, 165 East 7th Street, Eugene, Oregon 97401 or by e-mail at aitken.greg@deq.state.or.us. Questions may also be directed to Greg Aitken by phone at (541) 687-7361.
**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 DETERMINATION THAT CONTAMINATED SOIL GENERATED DURING REMEDIATION IS A CORRECTIVE ACTION MANAGEMENT UNIT (CAMU) ELIGIBLE WASTE FOR MERCER INDUSTRIES

**COMMENTS DUE:** 5 p.m., October 30, 2015
**PROJECT LOCATION:** 10760 SW Denny Rd, Beaverton
**PROPOSAL:** the Department of Environmental Quality (DEQ) requests public comment on its proposed decision regarding soil at the property located at 10740 SW Denny Rd, Beaverton, Oregon (Mercer Property). The soil remedial action would be subject to a corrective action management unit (CAMU) determination for treatment and disposal of the contaminated soil at the Chemical Waste Management (CWM) Subtitle C landfill in Arlington, Oregon.

CAMU-eligible wastes are defined in 40 Code of Federal Regulations (CFR) 264.552(a)(1)(i) as: "all solid and hazardous wastes, and all media including groundwater, surface water, soils and sediments and debris, that are managed for implementing cleanup." The DEQ Regional Administrator with regulatory oversight where remediation is taking place may approve placement of CAMU-eligible wastes in a hazardous waste landfill provided the waste meets the appropriate

treatment standards. The proposed treatment would involve stabilization of the soil to reduce the leachability of contaminants to regulatory thresholds, if feasible, or the lowest feasible leachate concentrations. The treated soil would then be landfilled at the CWM facility in Arlington, Oregon.

**HIGHLIGHTS:** Mercer Industries manufactured wooden windows and some were treated in an above-ground dip tank containing 95% mineral spirits and 5% pentachlorophenol between approximately 1970 and 1985. The ground surface immediately surrounding the dip tank drained to a shallow dry well nearby and caused subsurface soil and groundwater contamination.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Matt Kohlbecker at 700 NE Multnomah St, Suite 600 or Kohlbecker.Matt@deq.state.or.us. For more information contact the project manager at 503-229-6371.

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 136 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 136 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=136

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. A final decision concerning the proposed CAMU-eligibility will be made after consideration of public comments.

**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 NO FURTHER ACTION FOR PECO EAST PLANT AND SOUTH LOT

**COMMENTS DUE:** 5 p.m., Monday, Nov. 2, 2015

Project location: 4784 SE 17th Avenue and 4855 SE 18th Ave., Portland, Oregon

**PROPOSAL:** DEQ is soliciting public comments on the proposed no further action determination for the East Plant and South Lot parcels of the PECO site. DEQ has approved cleanup actions at the East Plant, and determined that contamination at the South Lot does not pose a risk. This proposed determination meets the requirements of Oregon Administrative Rules Chapter 340, Division 122, and Chapter 340 Division 122, Sections 010 to 0140 for Cleanup Sites; and ORS 465.200 through 465.455.

**HIGHLIGHTS:** The East Plant and South Lot parcels are located in an industrialized area of southeast Portland. East Plant is approximately two acres in size, and occupied by a large industrial building. South Lot is 1.4 acre and contains a 3,000 square foot office/warehouse. Both parcels have been owned and used by PECO since the 1960s. DEQ identified soil, soil vapor, and groundwater contamination beneath the East Plant from historical solvent releases. Under a 2012 DEQ Record of Decision, soil vapor extraction and in-situ groundwater treatment were completed to address the contamination. Treatment was effective, and residual contaminant concentrations are below cleanup values for industrial exposure. Sampling of soil and groundwater at the South Lot in 2004 did not identify significant soil or groundwater contamination, and the parcel was not included in the 2012 Record of Decision. Based on this information, DEQ proposes a no further action determination for both parcels.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Daniel Hafley at 700 NE Multnomah St., Ste. 600, Portland, Oregon or hafley.dan@deq.state.or.us. For more information contact the project manager at 503-229-5213.

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#1973 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI#1973 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=1274&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.

## REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION FOR FORMER BARON BLAKESLEE (BBI) SOIL

**COMMENTS DUE:** 5 p.m., Monday, Nov. 2, 2015

**PROJECT LOCATION:** 5920 NE 87th Ave., Portland, Oregon

**PROPOSAL:** DEQ is soliciting public comments on the proposed conditional no further action determination for soil at the former Baron Blakeslee site. DEQ has approved remedial action activities implemented at the site, which are consistent with the selected remedy, and post-cleanup data verify that residual soil contamination is below acceptable levels. Remedial action at the site to address soil contamination is complete, and no further action is needed provided the site will be used for non-residential purposes. This proposed determination for soil meets the requirements of Oregon Administrative Rules Chapter 340, Division 122, and Chapter 340 Division 122, Sections 010 to 0140 for Cleanup Sites; and ORS 465.200 through 465.455.

**HIGHLIGHTS:** The property is roughly triangular, approximately 0.7 acre in size, and located in an industrial park consisting of light industrial facilities. Releases resulted in soil contamination from volatile organic compounds, commonly known as VOCs, which extend offsite to the adjacent property eastward, Superior Tank Wash. DEQ issued a Record of Decision for cleanup in 2008 selecting excavation and offsite disposal of soil to reduce soil concentrations to below the most conservative screening levels for protection of site workers and leaching to groundwater. The proposed determination does not include groundwater, which is presently undergoing cleanup. Excavation activities were implemented in several phases beginning in October 2011 and completed in November 2012. A total of 3,044 cubic yards of soil were removed from both onsite and offsite excavations and disposed of at Oregon hazardous and nonhazardous waste landfills.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Anna Coates at 700 NE Multnomah St., Ste. 600, Portland, Oregon or coates.anna@deq.state.or.us.For more information contact the project manager at 503-229-5213.

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#1274 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI#1274 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=1274&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

**COMMENTS DUE:** 5 p.m., October 31, 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 ¼-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.

## 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 Examiners for Engineering and Land Surveying**
**Chapter 820**

**Rule Caption:** To implement new processes as a result of the passing of SB 297.

| Date: | Time: | Location: |
|---|---|---|
| 11-10-15 | 1:30 p.m. | 670 Hawthorne Ave., SE Suite 220<br>Salem, OR 97301 |

**Hearing Officer:** Jason Kent
**Stat. Auth.:** ORS 182.454, 182.456, 182.462, 670.306, 670.310, 672.005, 672.007, 672.153, 672.155, 672.240, 672.255
**Stats. Implemented:** ORS 672.002–672.325
**Proposed Adoptions:** 820-001-0100, 820-005-0001, 820-005-0005, 820-005-0010, 820-005-0015, 820-005-0020, 820-005-0025, 820-005-0030, 820-005-0035, 820-005-0040, 820-005-0045, 820-005-0050, 820-005-0055, 820-005-0060, 820-005-0065, 820-005-0070, 820-005-0075, 820-005-0080, 820-005-0085, 820-005-1000, 820-010-1000, 820-010-1010, 820-010-1020, 820-010-2000, 820-010-2010, 820-010-2020, 820-010-3000, 820-010-3010, 820-010-4000, 820-010-5000, 820-010-5010, 820-001-0200, 820-080-1000, 820-020-0050, 820-015-0060, 820-015-0070, 820-080-0005, 820-080-0010
**Proposed Repeals:** 820-001-0100(T), 820-001-0200(T), 820-005-0001(T), 820-005-0005(T), 820-005-0010(T), 820-005-0015(T), 820-005-0020(T), 820-005-0025(T), 820-005-0030(T), 820-005-0035(T), 820-005-0040(T), 820-005-0045(T), 820-005-0050(T), 820-005-0055(T), 820-005-0060(T), 820-005-0065(T), 820-005-0070(T), 820-005-0075(T), 820-005-0080(T), 820-005-0085(T), 820-005-1000(T), 820-010-0010, 820-010-0200, 820-010-0204, 820-010-0205, 820-010-0206, 820-010-0207, 820-010-0208, 820-010-0209, 820-010-0210, 820-010-0212, 820-010-0213, 820-010-0214, 820-010-0215, 820-010-0225, 820-010-0226, 820-010-0227, 820-010-0228, 820-010-0230, 820-010-0231, 820-010-0235, 820-010-0236, 820-010-0255, 820-010-0325(T), 820-010-0400, 820-010-0415, 820-010-0417, 820-010-0420, 820-010-0425, 820-010-0427, 820-010-0430, 820-010-0440, 820-010-0442, 820-010-0443, 820-010-0444, 820-010-0450, 820-010-0455, 820-010-0460, 820-010-0463, 820-010-0465, 820-010-0470, 820-010-0480, 820-010-0600, 820-010-0625, 820-010-1000(T), 820-010-1010(T), 820-010-1020(T), 820-010-2000(T), 820-010-2010(T), 820-010-2020(T), 820-010-3000(T), 820-010-3010(T), 820-010-4000(T), 820-010-5000(T), 820-010-5010(T), 820-020-0050(T), 820-020-0060, 820-020-0070, 820-080-0005(T), 820-080-0010(T), 820-080-1000(T), 820-010-0500, 820-010-0325, 820-010-0605, 820-010-0617, 820-010-0619, 820-010-0300, 820-010-0305
**Last Date for Comment:** 11-10-15, Close of Hearing
**Summary:** To adopt rules that allow the Board to continue processing applications for registration as a professional engineer, land surveyor, photogrammetrist, and for certification as a water right examiner. Although the qualifications for registration or certification have not changed, SB 297 eliminated the two-step application process. The proposed changes allow the applicant to submit an application for registration or certification once the applicant meets the minimum requirements, which include passing the required examinations and obtaining the required experience. Applicants may still gain additional years of experience instead of graduating from an approved curriculum. The proposed changes allow an applicant to complete these requirements in any order prior to submitting an application. Other housekeeping changes were made to reorganize rules. Over the years, rules that did not apply to licensure were filed under division 10 — Licensing, such as the Board's budget, fees, and refunds and charges. These rule proposals adopt new division 80 — Fees. In addition, the qualifications for the Board Administrator and the procedure for requesting new branches of a profession were also in division 10 — Licensing. The proposal includes moving them to division 1 — Procedural Rules, while moving the rules for civil penalties to division 15. Further, the definitional rules are proposed to be adopted in the new division 5 — Definitions.
**Rules Coordinator:** Jenn Gilbert
**Address:** Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301
**Telephone:** (503) 934-2107

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**Rule Caption:** Second Rulemaking Hearing to define an appurtenance.

| Date: | Time: | Location: |
|---|---|---|
| 11-10-15 | 1:30 p.m. | 670 Hawthorne Ave. SE, Suite 220<br>Salem, OR 97301 |

**Hearing Officer:** Jason Kent
**Stat. Auth.:** ORS 670.310, 672.060, 672.107, and 672.255
**Stats. Implemented:** ORS 672.002–672.325
**Proposed Amendments:** 820-040-0005
**Last Date for Comment:** 11-10-15, Close of Hearing
**Summary:** To amend OAR 820-040-0005 to include language to define an appurtenance. As a result of a request to extend the comment period, the OSBEELS postponed the date of its intended action on this rule. This will be the second Rulemaking Hearing.
**Rules Coordinator:** Jenn Gilbert
**Address:** Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301
**Telephone:** (503) 934-2107

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**Board of Licensed Social Workers**
**Chapter 877**

**Rule Caption:** Adoption of requirements for temporary clinical social work associate certificate.

| Date: | Time: | Location: |
|---|---|---|
| 11-20-15 | 9 a.m. | Morrow Crane Bldg.<br>3218 Pringle Rd. SE<br>Salem, OR 97302 |

**Hearing Officer:** Randy Harnisch
**Stat. Auth.:** ORS 675.510-675.600 & HB 2473, (2015)
**Stats. Implemented:** HB 2473 (2015)
**Proposed Adoptions:** 877-020-0021
**Proposed Amendments:** 877-020-0005

**Last Date for Comment:** 11-20-15, Close of Business
**Summary:** New OAR 877-020-0021 establishes requirements necessary for the board to issue a temporary clinical social work associate certificate and sets limits on the temporary certificate.

Amendments to OAR 877-020-0005 include reference to the temporary clinical social work associate certificate.
**Rules Coordinator:** Randy Harnisch
**Address:** Board of Licensed Social Workers, 3218 Pringle Rd. SE, Suite 240, Salem, OR 97302-6310
**Telephone:** (503) 373-1163

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**Rule Caption:** Adoption of rules establishing standards for child custody and parenting time evaluations.

| Date: | Time: | Location: |
|---|---|---|
| 11-20-15 | 9 a.m. | Morrow Crane Bldg.<br>3218 Pringle Rd. SE<br>Salem, OR 97302 |

**Hearing Officer:** Randy Harnisch
**Stat. Auth.:** ORS 675.510–675.600
**Stats. Implemented:** ORS 675.510–675.600
**Proposed Adoptions:** 877-030-0110
**Last Date for Comment:** 11-20-15, Close of Business
**Summary:** Proposed OAR 877-030-0110 will establish standards and guidance for regulated social workers who provide child custody and parenting time evaluations.
**Rules Coordinator:** Randy Harnisch
**Address:** Board of Licensed Social Workers, 3218 Pringle Rd. SE, Suite 240, Salem, OR 97302-6310
**Telephone:** (503) 373-1163

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**Rule Caption:** Adoption of rule increasing fees specified in the 2015–17 Legislatively approved BLSW budget.

| Date: | Time: | Location: |
|---|---|---|
| 11-20-15 | 9 a.m. | Morrow Crane Bldg.<br>3218 Pringle Rd. SE<br>Salem OR 97302 |

**Hearing Officer:** Randy Harnisch
**Stat. Auth.:** ORS 675.510–675.600, HB 5009 (2015)
**Stats. Implemented:** ORS 675.510–675.600, HB 5009 (2015)
**Proposed Amendments:** 877-001-0020
**Last Date for Comment:** 11-20-15, Close of Business
**Summary:** The proposed amendment would increase certain renewal fees by 10%. The fee increase was adopted by the Legislature as a part of the BLSW biennial 2015–17 budget. The following fees would increase as follows:

LCSW (2 year renewal cycle) would increase from $260 to $286 every two years.

CSWA (1 year renewal cycle) would increase from $60 to $66 every year.

LMSW (2 year renewal cycle) would increase from $200 to $220 every two years.

RBSW (2 year renewal cycle) would increase from $100 to $110 every two years

LCSW- inactive (2 year renewal cycle) would increase from $96 to $106 every two years.

LCSW- reduced requirements (2 year renewal cycle) would increase from $130 to $143 every two years.
**Rules Coordinator:** Randy Harnisch
**Address:** Board of Licensed Social Workers, 3218 Pringle Rd. SE, Suite 240, Salem, OR 97302-6310
**Telephone:** (503) 373-1163

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**Board of Massage Therapists**
**Chapter 334**

**Rule Caption:** To modify the initial licensing requirements and modify continuing education requirements for license renewals.

| Date: | Time: | Location: |
|---|---|---|
| 10-26-15 | 9 a.m. | 728 Hawthorne Ave. NE<br>Salem, OR 97301 |

**Hearing Officer:** Kate Coffey
**Stat. Auth.:** ORS 687.001, 687.041, 687.051, 687.121, 687.071
**Other Auth.:** ORS 183, 182.456–182.472
**Stats. Implemented:** ORS 687.011, 687.121, 687.031, 687.041, 687.051, 687.071
**Proposed Amendments:** 334-001-0060, 334-010-0005, 334-010-0009, 334-010-0010, 334-010-0012, 334-010-0015, 334-010-0017, 334-010-0033, 334-010-0050
**Last Date for Comment:** 10-26-15, Close of Hearing
**Summary:** To increase the required hours for initial license from 500 to 625 and to remove the requirement for all initial applicants; except those licensing by State Indorsement, to take the Oregon Practical exam. In addition, this rule will modify the continuing education requirements for license renewals.
**Rules Coordinator:** Ekaette Udosenata
**Address:** Board of Massage Therapists, 728 Hawthorne Ave. NE, Salem, OR 97301
**Telephone:** (503) 365-8657

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**Board of Optometry**
**Chapter 852**

**Rule Caption:** Updates for public records process and fees, board member compensation and hydrocodone prescribing.
**Stat. Auth.:** ORS 683
**Other Auth.:** ORS 58, 63, 181, 182, 342, 408, 431, 646, 670, 676, 689
**Stats. Implemented:** ORS 683.010–683.340 & 683.990
**Proposed Adoptions:** 852-005-0035
**Proposed Amendments:** 852-005-0015, 852-010-0080, 852-020-0035
**Last Date for Comment:** 10-30-15, 4 p.m.
**Summary:** Adopt revisions to clarify board compensation rates in rule, to implement a public records request process and associated fees and modify the agency's rules to reflect legislative changes affecting optometrists prescribing Schedule II hydrocodone-combination drugs.

852-005-0015 —specifies the rates of pay for Board member meetings, other business and continuing education review.

852-010-0080 — creates public records fees for agency requests.

852-005-0035 — creates rules related to public records requests to the agency.

852-020-0035 — clarifies an optometrist's ability to prescribe Schedule II hydrocode-combination drugs.
**Rules Coordinator:** Shelley Sneed
**Address:** Board of Optometry, 1500 Liberty St. SE, Suite 210, Salem, OR 97302
**Telephone:** (503) 399-0662, ext. 3

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**Bureau of Labor and Industries**
**Chapter 839**

**Rule Caption:** Hearing on 10/23/2015 to discuss the rules changes to be in compliance with federal regulations.

| Date: | Time: | Location: |
|---|---|---|
| 10-19-15 | 10 a.m. | Bureau of Labor and Industries<br>Conference Rm.<br>1400 Executive Parkway, #200<br>Eugene, OR 97401 |
| 10-23-15 | 9:30 a.m. | Portland State Office Bldg., Rm. E<br>800 NE Oregon St.<br>Portland, OR 97232 |

**Hearing Officer:** Stephen Simms
**Stat. Auth.:** ORS 660.120, 651.060(4)
**Stats. Implemented:** ORS 660.120, 192.410–192.505, 660.126, 660.135, & 660.137
**Proposed Adoptions:** 839-011-0335
**Proposed Amendments:** 839-011-0140, 839-011-0143, 839-011-0145, 839-011-0170, 839-011-0270, 839-011-0310, 839-011-0000, 839-011-0015, 839-011-0020, 839-011-0030, 839-011-0050, 839-

011-0051, 839-011-0072, 839-011-0073, 839-011-0074, 839-011-0078, 839-011-0090, 839-011-0142, 839-011-0175, 839-011-0200, 839-011-0250, 839-011-0260, 839-011-0265, 839-011-0290, 839-011-0300, 839-011-0320, 839-011-0334, 839-011-0401, 839-011-0402, 839-011-0403, 839-011-0404, 839-011-0405, 839-011-0406, 839-011-0407, 839-011-0408, 839-011-0501, 839-011-0505, 839-011-0510, 839-011-0515, 839-011-0520, 839-011-0525, 839-011-0530, 839-011-0535, 839-011-0540, 839-011-0545, 839-011-0550, 839-011-0555, 839-011-0560, 839-011-0565, 839-011-0010, 839-011-0040, 839-011-0070, 839-011-0082, 839-011-0084, 839-011-0088, 839-011-0093, 839-011-0141, 839-011-0162, 839-011-0280
**Proposed Repeals:** 839-011-0060
**Last Date for Comment:** 10-23-15, 5 p.m.
**Summary:** Apprenticeship Division Administrator Stephen Simms filed with the Secretary of State a Notice of Proposed Rulemaking Hearing on August 27th, 2015 regarding proposed amendments to OAR 839-011-0000–839-011-0565 in order to conform Oregon's apprenticeship regulations to recently amended federal requirements.

The Oregon State Apprenticeship and Training Council ("Council") convened an Administrative Rules and Policy Task Force ("Task Force) to review proposed changes and to recommend amendments to its administrative rules to the Council for adoption. The Council has scheduled public hearings on the proposed rule amendments for October 23rd 2015 from 9:30 am–11:30 at the Portland State Office Building, Room 1E, 800 NE Oregon Street, Portland. The public is invited to attend these hearings and to submit written and oral comments to the proposed rule amendments.

The proposed amendments bring Oregon into conformance with federal requirements. Corrections in grammar and usage were also incorporated into these amendments. The proposed amendment harmonizes definitions in these rules with federal definitions and requirements.

The Division will send the Notice of Proposed Rulemaking Hearing on the proposed rule amendments to all persons and organizations listed on the Bureau's rules notice list and post the language of the proposed rules on the Bureau's web site at www.oregon.gov/boli. (Click on the "New/Proposed Rules" link.) In addition to being received at the Proposed Rulemaking Hearings, public comment pertaining to the proposed rule amendments may also be submitted in writing to the Bureau of Labor and Industries Rules Coordinator at the address indicated on the Notice of Proposed Rulemaking Hearing until close of business at 5 pm on October 23rd, 2015. Final rules will be adopted thereafter.

The meeting location is accessible to disabled persons. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities must be made as soon as possible to the Contested Case Coordinator at (number) or Oregon Relay TTY: 711, and in any event at least 14 days before the hearing.
**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:** Adopt rules regarding the mandatory provision of sick time.

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 5 p.m. | Eugene Public Library,<br>Bascom-Tykeson Rms.<br>100 W. 10th Ave.<br>Eugene, OR 97401 |
| 10-20-15 | 11:30 a.m. | Deschutes Services Center<br>Barnes/Sawyer Rms.<br>1300 NW Wall St.<br>Bend, OR 97701 |
| 10-26-15 | 12 p.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 1B<br>Portland, OR 97232 |

**Hearing Officer:** Jesse Bontecou
**Stat. Auth.:** Senate Bill 454, Regular Session (Or.2015); ORS 651.060
**Stats. Implemented:** SB 454, Regular Session (Or.2015)
**Proposed Adoptions:** 839-007-0000 through 839-007-0499
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** SB 454 amends ORS Chapter 653 to require employers to provide sick time leave to their employees. The proposed rule amendments would create a new division of administrative rules to clarify the provisions of SB 454, including those addressing the accrual and use of sick time, the payment of sick time, notice and posting requirements, employee documentation, calculation of the number of employees for purposes of determining whether sick time is paid or unpaid, and civil penalties for noncompliance with the sick time regulations.
**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:** Proposed amendment to conform language of OAR 839-005-0125 with ORS 659A.030(1)(f) and ORS 659A.001(9).
**Stat. Auth.:** ORS 659A.805
**Stats. Implemented:** ORS 659A.001(9) & 659A.030(1)(f)
**Proposed Amendments:** 839-005-0125
**Last Date for Comment:** 11-03-15, 5 p.m.
**Summary:** ORS 659A.030(1)(f) provides:

"(1) It is an unlawful employment practice:

***(f) For any person to discharge, expel or otherwise discriminate against any other person because that other person has opposed any unlawful practice, or because that other person has filed a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so."

ORS 659A.001(9) provides:

As used in this chapter:

***(9) "Person" includes:

(a) One or more individuals, partnerships, associations, labor organizations, limited liability companies, joint stock companies, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

(b) A public body as defined in ORS 30.260.

(c) For purposes of ORS 659A.145 and 659A.421 and the application of any federal housing law, a fiduciary, mutual company, trust or unincorporated organization."

Currently OAR 839-005-0125 provides:

"Discrimination in Retaliation for Opposing Unlawful Practices

(1) This rule interprets ORS 659A.030(1)(f).

(2) An employer will be found to have unlawfully retaliated against an employee if:

(a) The employee has engaged in protected activity by:

(A) Explicitly or implicitly opposing an unlawful practice or what the employee reasonably believed to be an unlawful practice, or

(B) Filing a charge, testifying, or assisting in an investigation, proceeding, or lawsuit under ORS 659A, or attempting to do so;

(b) The employer has subjected the employee to any adverse treatment, in or out of the workplace, that is reasonably likely to deter protected activity, regardless of whether it materially affects the terms, conditions, or privileges of employment; and

(c) There is a causal connection between the protected activity and the adverse treatment."

The proposed amendment to OAR 839-005-0125 would replace the word "employer" in the rule with the word "person," so that the rule uses the exact language of ORS 659A.030(1)(f), which it interprets. ORS 659A.030(1)f) applies to "persons" which , as defined by ORS 659A.001(9) for purposes of ORS chapter 659A, includes but is not limited to individuals and many named types of entities. It is not necessary that these individuals and entities be employers, to be found in violation of ORS 659A.(1)(f).
**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 Agriculture**
**Chapter 603**

**Rule Caption:** Update ODA fertilizer rule to implement HB 2443 new fertilizer fees.

| Date: | Time: | Location: |
|---|---|---|
| 10-16-15 | 2–4 p.m. | Oregon Dept. of Agriculture<br>Basement Conference Rm. D<br>635 Capitol St NE<br>Salem OR 97301 |

**Hearing Officer:** Staff
**Stat. Auth.:** ORS 561.144 & 633.311–633.479
**Stats. Implemented:** ORS 561.144 & 633.311–479
**Proposed Adoptions:** 603-059-0060
**Proposed Amendments:** 603-059-0020, 603-059-0030, 603-059-0050, 603-059-0055, 603-059-0070, 603-059-0080
**Last Date for Comment:** 10-23-15, 5 p.m.
**Summary:** The Rules implement Enrolled HB2443 that increase fertilizer, soil amendment, lime and compost product registration fees, implements an inspection fee on lime, increases the product evaluation fee and updates the Rule to conform with the American Association of Plant Food Control Officials Publication #68.
**Rules Coordinator:** Sue Gooch
**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
**Telephone:** (503) 986-4583

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

**Rule Caption:** Implementing Requirements of House Bill 2758 Related to Oregon Confidential Communications Request Form

| Date: | Time: | Location: |
|---|---|---|
| 10-30-15 | 8:30 a.m. | Dept. of Consumer & Business Services<br>Labor & Industries Bldg.<br>350 Winter St NE,<br>Conference Rm. F, Salem, OR |

**Hearing Officer:** Jeannette Holman
**Stat. Auth.:** ORS 731.244
**Other Auth.:** 2015 OL Ch. 470, Sec. 2 & 3
**Stats. Implemented:** 2015 OL Ch. 470, Sec. 2 & 3
**Proposed Adoptions:** 836-053-0600, 836-053-0605, 836-053-0610, 836-053-0615
**Last Date for Comment:** 11-6-15, 5 p.m.
**Summary:** These rules implement the provisions of House Bill 2758 (2015 Legislative Session). The rules set forth the requirements imposed on carriers and third party administrators related to the use of the uniform "Oregon Confidential Communication Request Form" developed as specified in the legislation. The rules also set forth carrier reporting requirements related to confidential communication requests and the use of the new form.
**Rules Coordinator:** Jenny Craig
**Address:** Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
**Telephone:** (503) 947-7484

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**Rule Caption:** Election of Lower Limits for Uninsured Motorist Coverage

| Date: | Time: | Location: |
|---|---|---|
| 11-5-15 | 1 p.m. | Dept. of Consumer & Business Services<br>Labor & Industries Bldg.<br>350 Winter St NE,<br>Conference Rm. F, Salem, OR |

**Hearing Officer:** Jeannette Holman
**Stat. Auth.:** ORS 731.244 & 742.502
**Stats. Implemented:** ORS 742.502
**Proposed Amendments:** 836-054-0000
**Last Date for Comment:** 11-13-15, 5 p.m.
**Summary:** OAR 836-054-0000(2) currently incorporates by references a specific exhibit that does not correctly explain the law that will apply to automobile policies that will be issued or renewed after January 1, 2016. The changes to the rule remove the reference to a specific exhibit and direct the reader to the website for a sample form that has been approved by the Insurance Division of the Department of Consumer and Business Services. The language for the amended rule is consistent with the statutory language of ORS 742.502(2)(b). The changes to the rule will allow the Insurance Division to respond more quickly to changes required to the form by eliminating the need to conduct rulemaking to change the form.
**Rules Coordinator:** Jenny Craig
**Address:** Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
**Telephone:** (503) 947-7484

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**Department of Corrections**
**Chapter 291**

**Rule Caption:** Food Service Programs in Department of Corrections Facilities
**Stat. Auth.:** ORS 179.040, 423.020, 423.030 & 423.075
**Stats. Implemented:** ORS 179.040, 423.020, 423.030 & 423.075
**Proposed Adoptions:** 291-061-0046, 291-061-0066
**Proposed Amendments:** 291-061-0005 through 291-061-0310
**Last Date for Comment:** 11-13-15, 4:30 p.m.
**Summary:** These rule amendments are necessary to update and align the department's rules relating to food handling and preparation to Oregon Health Authority, Public Health Division rules and to reflect operational changes within the department.
**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:** Standards for Interstate Transfer of Adult Offenders
**Stat. Auth.:** ORS 144.600, 179.040, 423.020, 423.030 & 423.075
**Stats. Implemented:** ORS 144.600, 179.040, 423.020, 423.030 & 423.075
**Proposed Amendments:** 291-180-0252
**Last Date for Comment:** 11-13-15, 4:30 p.m.
**Summary:** The Department of Corrections fully participates in the Interstate Compact for Adult Offender Supervision (ICAOS). This rule amendment is necessary so that the department may adopt by reference the most current rules published by the ICAOS.
**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: |
|---|---|---|
| 10-29-15 | 1:30 p.m. | OR Dept. of Energy<br>625 Marion St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Wendy Simons
**Stat. Auth.:** ORS 469.040, 757.612
**Stats. Implemented:** ORS 757.612
**Proposed Amendments:** 330-140-0060, 330-140-0070, 330-140-0140
**Last Date for Comment:** 10-30-15, 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 the fixed annual deposit of $1,200 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.

The rules will become effective upon filing. Text of the proposed rules and hearing details can be found on the department website: http://www.oregon.gov/energy/Pages/Rulemaking-LECPPP.aspx.

**Rules Coordinator:** Elizabeth Ross
**Address:** Department of Energy, 625 Marion St. NE, Salem, OR 97301
**Telephone:** (503) 373-8534

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**Rule Caption:** Updating Residential Energy Tax Credit rules, including HB 2171, rate chart, and other program aspects.

| Date: | Time: | Location: |
|---|---|---|
| 10-23-15 | 10 a.m. | Oregon Dept. of Energy<br>625 Marion St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Elizabeth Ross
**Stat. Auth.:** ORS 469.040, 469B.100, 469B.103, 469B.106, 469B.109, 469B.112, 316.116, 2015 OL Ch. 701, Sec. 26–37
**Stats. Implemented:** ORS 469B.100–469B.118, 316.116, 2015 OL Ch. 701, Sec. 26–37
**Proposed Amendments:** 330-070-0010, 330-070-0013, 330-070-0014, 330-070-0020, 330-070-0021, 330-070-0022, 330-070-0024, 330-070-0025, 330-070-0026, 330-070-0027, 330-070-0029, 330-070-0040, 330-070-0045, 330-070-0048, 330-070-0055, 330-070-0059, 330-070-0060, 330-070-0062, 330-070-0063, 330-070-0064, 330-070-0070, 330-070-0073, 330-070-0076, 330-070-0078, 330-070-0085, 330-070-0089, 330-070-0097
**Last Date for Comment:** 10-23-15, 5 p.m.
**Summary:** The proposed rules for the Residential Energy Tax Credit program make program updates and implement changes provided in Oregon Laws 2015, chapter 701, sections 26 through 37 (HB 2171). HB 2171 places an incentive cap of 50 percent of device eligible cost for all category one alternative energy devices. The bill provides the Oregon Department of Energy with rulemaking authority to provide for a lesser amount of incentive by rule based on market conditions for all category one alternative energy devices and wind devices. The bill also increases the incentive for solar radiation for domestic water heating and solar radiation for swimming pool heating devices, and those changes were implemented in a prior RETC rulemaking focused on solar thermal.

This rulemaking proposes overall rule updates to assist and improve program administration. Rule updates include reducing the electric heat pump water heater incentive based on market conditions, reducing the solar photovoltaic incentive, other than solar radiation for domestic water and swimming pool heating, based on market conditions, increasing the Heating Seasonal Performance Factor (HSPF) requirement for ducted and ductless heat pumps eligibility, updating solar radiation for domestic water heating requirements, allowing more than one tax credit for separate loop systems in one year and updates for water heating appliances and updating inspection requirements. There are also general updates to the tax credit rate chart. Lastly, the proposed rules include amendments to correct terminology, simplify language and update statutory references. The department plans for the rules to be effective January 1, 2016. The department requests public comment on these draft rules.

A call-in number is available for the public hearing, please see website for details and other materials: http://www.oregon.gov/energy/CONS/Pages/Rulemaking-RETC.aspx

The department 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.

**Rules Coordinator:** Elizabeth Ross
**Address:** Department of Energy, 625 Marion St. NE, Salem, OR 97301
**Telephone:** (503) 373-8534

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## Department of Environmental Quality
## Chapter 340

**Rule Caption:** Update LRAPA Title 15 — Enforcement Procedures and Civil Penalties

| Date: | Time: | Location: |
|---|---|---|
| 11-12-15 | 12:30 p.m. | LRAPA Office<br>1010 Main St.<br>Springfield, OR 97477 |

**Hearing Officer:** Merlyn Hough
**Stat. Auth.:** ORS 468.020, 468.065, 468A.035, 468A.040, 468A.050 and 468A.310
**Other Auth.:** OAR 340-200-0040, LRAPA Title 14
**Stats. Implemented:** ORS 468.020, 468.065, 468A.035, 468A.040, 468A.050 and 468A.310
**Proposed Amendments:** 340-200-0040
**Last Date for Comment:** 11-12-15, 12 p.m.
**Summary:** LRAPA proposes to amend Title 15 — "Enforcement Procedures and Civil Penalties" to align with the 2013 Oregon Department of Environmental Quality (DEQ) adoption of new civil penalty matrix amounts in December 2013, becoming effective January 6, 2014.

The proposal includes adopting the enforcement civil penalty amounts as DEQ adopted through the Environmental Quality Commission (EQC). LRAPA does not have the authority to have a different civil penalty structure than the EQC adopts for DEQ. Therefore, LRAPA must follow suit and update Title 15's civil penalty structure to correspond with the DEQ's civil penalty amounts. This proposal is for that purpose and will incorporate changes requested by EPA along with housekeeping that includes eliminating duplicative text, cleaning up typos and formatting.

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

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**Rule Caption:** Update LRAPA's air quality rules to address other federal regulations

| Date: | Time: | Location: |
|---|---|---|
| 11-12-15 | 12 p.m. | LRAPA Head Qtrs.<br>1010 Main St.<br>Springfield, OR 97477 |

**Hearing Officer:** Max Hueftle
**Stat. Auth.:** ORS 468A.135, 468A.150
**Other Auth.:** OAR 340-200-0010(3)
**Stats. Implemented:** ORS 468A.135, 468A.150
**Proposed Amendments:** 340-200-0040
**Last Date for Comment:** 11-12-15, 12 p.m.
**Summary:** LRAPA proposes to adopt new and amended federal air quality regulations. This includes adopting:

· New federal standards for boilers and process heaters, stationary internal combustion engines, nitric acid plants, and crude oil and natural gas production, transmission and distribution.

· Newly amended federal standards

The proposal includes revising previously adopted federal standards for internal combustion engines such that EPA would only del-

egate authority to LRAPA for those applicable sources required to have an Air Contaminant Discharge Permit (ACDP) or Title V Operating Permit.

LRAPA also proposes to repeal the sections in LRAPA's title 44 concerning Compliance Extensions for Early Reductions and Accidental Release Prevention. LRAPA will instead adopt the relevant language by reference from the federal versions of those rules/programs.

The draft also adds an annual reporting requirement to the sections pertaining to Gasoline Dispensing Facilities (GDFs).

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

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**Rule Caption:** Water Quality Permit Fee Update 2015

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 10-15-15 | 6 p.m. | DEQ Headquarters<br>811 SW 6th Ave., 10th Floor<br>Portland, OR 97204 |

**Hearing Officer:** Staff
**Stat. Auth.:** ORS 454.625, 468.020, 468.065, 468B.020, 468B.035
**Stats. Implemented:** ORS 454.745, 454.755, 468.065, 468B.015, 468B.035, 468B.050
**Proposed Amendments:** 340-045-0075, 340-071-0140
**Last Date for Comment:** 10-19-15, 4 p.m.
**Summary:** DEQ is proposing amend water quality permit fee rules to raise by 12 percent the water quality permit fees charged to the following types of permits:

- National Pollutant Discharge Elimination System permits
- Water Pollution Control Facility permits
- Water Pollution Control Facility permits specific to onsite septic systems

Fees will not be raised for the following permits:

- Suction dredge discharge; 700-PM permit fees are set in Oregon statute
- Graywater Water Pollution Control Facility permits 2401 and 2402 for graywater use
- Small off-stream mining operations; Water Pollution Control Facility permit 600

The new fees will take effect January 1, 2016.

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

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**Rule Caption:** Clean Fuels Program Update

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 10-19-15 | 9:30 a.m. | DEQ Headquarters<br>811 SW 6th Ave.,<br>19th Floor, Rm. EQC A<br>Portland, OR 97204 |

**Hearing Officer:** David Collier
**Stat. Auth.:** ORS 468.020; 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
**Other Auth.:** HB 2186 (2009) & SB 324 (2015)
**Stats. Implemented:** 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
**Proposed Amendments:** 340-012-0054, 340-012-0135, 340-012-0140, 340-253-0000, 340-253-0040, 340-253-0060, 340-253-0100, 340-253-0200, 340-253-0250, 340-253-0310, 340-253-0320, 340-253-0330, 340-253-0340, 340-253-0400, 340-253-0450, 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, 340-253-0650, 340-253-1000, 340-253-1010, 340-253-1020, 340-253-1030, 340-253-1050, 340-253-2000, 340-253-2100, 340-253-2200, 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040, 340-253-8050, 340-253-8060, 340-253-8070, 340-253-8080
**Last Date for Comment:** 10-21-15, 4 p.m.
**Summary:** DEQ proposes to amend Oregon Clean Fuels Program rules under division 253 of chapter 340 of the Oregon Administrative Rules. The proposed rule changes would:

- Implement Senate Bill 324 (2015) by:

• Exempting fuels that are used in watercraft, locomotives and construction equipment;

• Amending the fuel specification for biodiesel and biodiesel blends; and

• Clarifying that a small importer, defined as a company that imports less than 500,000 gallons of transportation fuel per year, is exempt from having to meet the clean fuel standards.

- Update the version of the models used to calculate carbon intensity.
- Incorporate values to quantify the impact greenhouse gas emissions from of indirect land use change.
- Establish the 2015 baseline for the program and the annual clean fuel standards for 2016 through 2025.
- Streamline the process to obtain DEQ approval of a carbon intensity for a fuel to be used in the Oregon Clean Fuels Program.

DEQ also proposes to amend and adopt rules under division 12 of chapter 340 of the Oregon Administrative rules to establish enforcement criteria for violations of the Oregon Clean Fuels Program.

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

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## Department of Fish and Wildlife
## Chapter 635

**Rule Caption:** Remove Gray Wolf from the Oregon List of Endangered Species

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 11-9-15 | 8 a.m. | 4034 Fairview Industrial Dr. SE<br>Salem, OR 97302 |

**Hearing Officer:** ODFW Commission
**Stat. Auth.:** ORS 496.012, 496.138, 496.146 & 496.162
**Other Auth.:** OAR 635-100
**Stats. Implemented:** ORS 496.171–496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026
**Proposed Amendments:** Rules in 635-100
**Last Date for Comment:** 11-9-15, Close of Hearing
**Summary:** Amend rule to remove the Gray Wolf from the List of Endangered Species under the Oregon Endangered Species Act.
**Rules Coordinator:** Michelle Tate
**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
**Telephone:** (503) 947-6044

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## Department of Geology and Mineral Industries
## Chapter 632

**Rule Caption:** Amends rules to implement 2015 legislation requiring exclusion certificates for certain mining operations.
**Stat. Auth.:** 2015 Oregon Laws Chapter ___(Enrolled HB) signed by governor August 12, 2015
**Stats. Implemented:** ORS 517.750, 517.755 & 517.800
**Proposed Amendments:** 632-030-0016, 632-030-0017, 632-030-0022
**Last Date for Comment:** 10-21-15, 5 p.m.
**Summary:** Revisions to OAR 632-030-0016 are required due to the creation of Exclusion Certificates, which are required for all formerly total exemption sites. The application form for an exclusion certificates requires the operator to report their name and location of the site, land ownership and proof of land owner permission for the mining activity, date of commencement of activity, explanation of all mining activities for the previous 60 months, and an explanation of why the site qualifies for an exclusion certificate. Exclusion certificates shall be renewed annually.

Revisions to OAR 632-030-0017 clarify that exclusion certificates shall be issued only when all mining activities on a parcel, or contiguous parcels are less than the exclusion certificate limits.

Revisions to OAR 632-030-0022, update the rule to include operators that hold both a limited exemption certificate and an operating permit on the same property, or contiguous properties that are operated as a single mining activity, shall pay a single annual renewal fee pursuant to ORS 517.800, based upon the total reported production from all sites within the parcel or contiguous parcels.

**Rules Coordinator:** Richard Riggs
**Address:** Department of Geology and Mineral Industries, 229 Broadalbin St. SW, Albany, OR 97321
**Telephone:** (541) 967-2053

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

**Rule Caption:** DHS — Home and Community-Based (HCB) Services and Settings and Person-Centered Service Planning

| Date: | Time: | Location: |
|---|---|---|
| 10-19-15 | 1 p.m. | Human Services Bldg., Rm. 160<br>500 Summer St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Staff
**Stat. Auth.:** ORS 409.050 & 413.042
**Other Auth.:** 1915(c) HCBS Waivers, 1915(i) State Plan HCBS, 1915(k) Community First Choice (K State Plan Option)
**Stats. Implemented:** ORS 409.050 & 413.042
**Proposed Adoptions:** Rules in 411-004
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** To implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Human Services (Department) is proposing to adopt rules in OAR chapter 411, division 004 to provide a foundation of standards to support the network of Medicaid-funded and private pay residential and non-residential Home and Community-Based Services (HCBS), Home and Community-Based (HCB) settings, and person-centered service planning for individuals receiving HCBS in Oregon.

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

- Seek employment and work in competitive integrated employment settings;
- Engage in community life;
- Control personal resources; and
- Receive services in the community.

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

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**Department of Justice**
**Chapter 137**

**Rule Caption:** Adopts Attorney General's Model Rules On Mediation Confidentiality To Implement 2015 Legislation.

| Date: | Time: | Location: |
|---|---|---|
| 10-22-15 | 9 a.m. | Department of Justice<br>Redwood Conference Rm.<br>1215 State St. NE,<br>Salem, OR 97301 |

**Hearing Officer:** Amy Alpaugh
**Stat. Auth.:** ORS 183.341, 183.502 & 2015 OL Ch. 114
**Stats. Implemented:** ORS 36.110, 36.220–36.238 & 2015 OL Ch. 114
**Proposed Adoptions:** 137-005-0052, 137-005-0054
**Proposed Amendments:** 137-005-0050
**Proposed Repeals:** 137-005-0050(T), 137-005-0052(T), 137-005-0054(T)
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** This rulemaking action implements 2015 legislation. Before 2015, to obtain confidentiality in mediations involving private parties and state agencies, agencies were required to go through formal rulemaking to adopt mediation confidentiality rules developed by the Attorney General. 2015 legislation changes the process. The Attorney General is now required to promulgate mediation confidentiality rules and agencies may adopt the rules by reference without formal rulemaking. This rulemaking action adopts Attorney General Model Mediation Confidentiality Rules. It also amends OAR 137-005-0050, an existing Attorney General Model Rule concerning the Confidentiality of Collaborative Dispute Resolution Communications, to specify the new process for agencies to adopt mediation confidentiality rules and to clarify certain provisions concerning mediation confidentiality.
**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 Transportation,**
**Driver and Motor Vehicle Services Division**
**Chapter 735**

**Rule Caption:** Medical Exemption from IID; Test Violation as Part of a Negative Report from IID

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 3 p.m. | DMV Headquarters<br>1905 Lana Ave. NE, Rm. 122<br>Salem, OR |

**Hearing Officer:** Liz Woods
**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 807.240, 807.270, 813.600, 813.602 and Ch. 577, OL 2015
**Stats. Implemented:** ORS 807.240, 807.270, 813.600, 813.602 and Ch. 577, OL 2015
**Proposed Amendments:** 735-064-0070, 735-070-0080, 735-070-0082, 735-118-0000, 735-118-0050
**Last Date for Comment:** 11-10-15, Close of Business
**Summary:** Chapter 577, Oregon Laws 2015 (SB 397) places new requirements on providers of ignition interlock devices (IIDs) to submit negative reports to those specified in law or to provide a certificate of no negative report at certain times. A person with a requirement to have an IID installed will continue to have the requirement unless a certificate of no negative report for the period prescribed in law is received by DMV. Chapter 577, Oregon Laws 2015 authorizes DMV to define by rule a test violation that would be considered a negative report. The law also requires that DMV prescribe by rule what form the report and certificates will take. DMV proposes to amend OAR 735-118-0000 to include definitions for tampering, unauthorized removal, lockout and test violation. DMV proposes to amend OAR 735-118-0050 to designate when and on what form reports required by Chapter 577, Oregon Laws 2015 must be made and to specify what constitutes a "negative report."

DMV proposes to amend 735-064-0070 to clarify that a person who is eligible for a hardship, probationary or hardship/probationary permit may need to install an IID if the requirement for the device is continuing indefinitely as the result of DMV not receiving the necessary report to end the requirement that the person has had no negative report for 90 consecutive days.

DMV also proposes to amend OAR 735-070-0080 and 735-070-0082 for two reasons: 1) To align those rules with the law changes and changes to OAR 735-118-0040 effective January 1, 2015; and 2) To indicate that when DMV or the court issues a medical exemption from the requirement to install an IID, that the granting of the

exemption may be used to terminate the requirement at the end of the period specified in law.

Other changes are for clarity.

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

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**Rule Caption:** Requirements for Proof of SSN; Replacement Driver License; License without Photograph
**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 807.021, 807.050, 807.110, 807.160
**Stats. Implemented:** ORS 802.200, 807.021, 807.022, 807.050, 807.110, 807.160, 807.220, 807.230, 807.280, 807.400
**Proposed Amendments:** 735-062-0005, 735-062-0110, 735-062-0120
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** Chapter 455, Oregon Laws 2015 (SB 494) amends ORS 807.110 to authorize DMV to issue a driver license without a photograph to a person in the military who is stationed outside of Oregon and does not have a photograph on file with DMV that meets the requirements to issue a license using the previous photo. Therefore, DMV proposes to amend 735-062-0120 to coincide with the law change.

As DMV currently issues replacement driver licenses or identification cards using the previous photo on file, DMV proposes to amend OAR 735-062-0110 to allow a replacement driver license, driver permit or identification card with a new photograph if the person realizes that at the time of the next renewal that he or she will be outside of Oregon and will need an updated photograph at the time to qualify for a renewal license using the previous photo in accordance with OAR 735-062-0125. DMV proposes to further amend OAR 735-062-0110 to issue a replacement driver license, driver permit or identification card with a photograph when a person between the ages of 21 and 27 requests a replacement. Such a replacement will update the driver license, driver permit or identification card so that the wording "Under 21 until" or "Under 18 until" will no longer be present, plus the photograph will be contemporary. This change will make certain that a photograph taken when the person was a minor is not used on a license or identification card issued when the person is an adult. DMV also proposes to issue a replacement driver license, driver permit or identification card with a new photograph when a person is changing his or her name as part of transitioning to a different gender. There are also a few situations where a person may need a new photograph on a replacement driver license, driver permit or identification card when a suspension is rescinded or reinstated and those are specified in the proposed amendments to OAR 735-062-0110.

DMV proposes to amend OAR 735-062-0005 as DMV learned that the Social Security Administration does not issue a letter stating that a person is not eligible for a social security number, and to specify that DMV will not accept proof of ineligibility for a social security number from a person who presents proof of being a citizen or lawful permanent resident of the United States or proof of being legally present with authorization for employment in the United States.

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

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**Rule Caption:** Proof of School Attendance, Completion or Exemption Needed for Driving Privileges if Under 18
**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 807.066
**Stats. Implemented:** ORS 807.066
**Proposed Amendments:** 735-062-0035
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** Chapter 716, Oregon Laws 2015 (HB 2465) amends ORS 807.066 so that a parent or legal guardian of an applicant under 18 years of age can certify that the applicant attends school, rather than the applicant needing to provide a form that must be completed by a representative at the school. Many teens apply for driving privileges during the summer months and often are unable to complete the process as there is no one at the school available to provide the necessary proof of school attendance. Allowing a parent or legal guardian to certify that the applicant is attending school is much more efficient for both DMV and the applicant. However, if DMV suspends the driving privileges of a person under 18 years of age based on notice from a school that a student has withdrawn from school, DMV will not accept a certification from a parent or legal guardian to reinstate driving privileges. Because of the change in ORS 807.066 DMV must amend OAR 735-062-0035 to align with statute.

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

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**Rule Caption:** Implements Chapter 111, Oregon Laws 2015, Relating to Vehicle Dealer-Only Auctions
**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 803.600, 803.625, 821.060, 821.080, 822.015, 822.035, 822.040, 822.060 and Chapter 111, Oregon Laws 2015
**Stats. Implemented:** ORS 822.005–822.080 and Chapter 111, Oregon Laws 2015
**Proposed Amendments:** 735-150-0010, 735-150-0017, 735-150-0020, 735-150-0047, 735-150-0110
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** ORS 822.015 as amended by Chapter 111, Oregon Laws 2015, changes the requirements for who can buy and sell vehicles in a vehicle auction held by a certified Oregon vehicle dealer (dealer-only auction) without holding an Oregon vehicle dealer certificate.

Prior to the legislative change, ORS 822.015 provided an exemption from Oregon vehicle dealer certification requirements for dealers licensed in other jurisdictions and their authorized representatives when participating in a dealer-only auction. Under amended ORS 822.015, only certified Oregon vehicle dealers or dealers licensed in another jurisdiction or their employees may participate in a dealer-only auction.

DMV is amending its vehicle dealer rules to conform to the law change. Other non-substantive changes clarify or simplify rule language.

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

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**Rule Caption:** Conforms DMV Vehicle Dealer Rules to Chapter 708, Oregon Laws 2015
**Stat. Auth.:** ORS 184.616, 814.619, 802.010, 822.009, 822.035, 822.043 and Chapter 708, Oregon Laws 2015
**Stats. Implemented:** ORS 822.009, 822.030, 822.035, 822.043, 822.045 and Chapter 708, Oregon Laws 2015
**Proposed Amendments:** 735-150-0055, 735-150-0140
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** Currently, ORS 822.043 authorizes vehicle dealers to charge a fee to prepare DMV documents necessary to issue or transfer title and registration on behalf of a vehicle purchaser. The fee limit is set by DMV under OAR 735-150-0055 at $100, if the dealer uses an integrator (a third party independent contractor); or $75, if the dealer does not use an integrator.

Chapter 708, Oregon Laws 2015, amends ORS 822.043 to repeal DMV's authority to set the fee amount by rule and establish a new statutory document-processing fee of $150, if the dealer uses an integrator; or $115, if the dealer does not use an integrator.

The proposed amendment of OAR 735-150-0055 and 735-150-0140 removes reference to the fee to prepare documents, formerly set by rule, and updates rule text to conform to the legislation.
**Rules Coordinator:** Lauri Kunze
**Address:** Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
**Telephone:** (503) 986-3171

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**Rule Caption:** Implements Chapter 404, Oregon Laws 2015, Relating to an Exemption from County Registration Fees
**Stat. Auth.:** ORS 184.616, 184.619, 190.110, 801.040, 801.041, 802.010, 802.110, 803.420, 803.445 and Chapter 404, Oregon Laws, 2015
**Stats. Implemented:** ORS 801.040, 801.041, 802.110, 803.420 & 803.445 and Chapter 404, Oregon Laws, 2015
**Proposed Adoptions:** 735-032-0070
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** ORS 801.040, 801.041, 802.042, 802.110, and 803.445 authorize Oregon counties and districts to charge vehicle registration fees that are in addition to state vehicle registration fees after meeting certain statutory requirements. This includes entering into an intergovernmental agreement with DMV to administer the collection and disposition of registration fees on behalf of a county or district.

For purposes of confidentiality, Oregon law authorizes eligible public employees, including police officers, to use their employment address in place of their residence address on DMV records. Currently, when an eligible employee registers a vehicle to an employment address in a county that charges a registration fee, the employee must pay a county registration fee for each vehicle registered to the employment address-even if the employee resides in another county.

In part, Chapter 404, Oregon Laws 2015 amends ORS 801.041 to prohibit counties from imposing a vehicle registration fee on vehicles registered to an employment address, when the registered owner is an eligible employee or household member who resides in another county.

Proposed OAR 735-032-0070 establishes the procedure to notify DMV when an eligible employee or household member's residence address is not within the county of the employment address as provided by ORS 801.041, as amended by Chapter 404, Oregon Laws 2015.
**Rules Coordinator:** Lauri Kunze
**Address:** Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
**Telephone:** (503) 986-3171

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## Department of Transportation, Highway Division
## Chapter 734

**Rule Caption:** Establishment of Variable Speed Zones and Locations and Criteria of Variable Interstate Speed Limits
**Stat. Auth.:** ORS 184.616, 184.619, 810.010 & 810.180
**Stats. Implemented:** ORS 810.180
**Proposed Amendments:** 734-020-0018, 734-020-0019
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** ORS 810.180 authorizes the Department of Transportation to conduct speed zone investigations and set speeds on most public roads, including interstate highways. Minor edits have been made to 734-020-0018, adding an acronym and changing the number of years records must be retained. As amended, 734-020-0019 will establish locations of variable speed limits on the Old Oregon Trail Highway (I-84) in the Baker Valley area. This amendment also significantly modifies the criteria for changing speeds and provides descriptions for congestion subsystem, weather subsystem, manual intervention and general conditions.
**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 Transportation, Rail Division
## Chapter 741

**Rule Caption:** Repeals 741-520-0010, Adoption of Federal Regulations
**Stat. Auth.:** ORS 184.616, 184.619, 823.011, 823.061, 824.086, 824.090
**Stats. Implemented:** ORS 824.061, 824.086, 824.090
**Proposed Repeals:** 741-520-0010
**Last Date for Comment:** 10-21-15, Close of Business
**Summary:** This rule is no longer needed as its provisions are now incorporated into newly revised 741-510-0015. This rulemaking eliminates duplication.
**Rules Coordinator:** Lauri Kunze
**Address:** Department of Transportation, Rail Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
**Telephone:** (503) 986-3171

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## Higher Education Coordinating Commission
## Chapter 715

**Rule Caption:** Allotment of Dispute Resolution Center Funds

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 1 p.m. | 775 Court Street NE, Small Conference Rm. Salem, OR 97301 |

**Hearing Officer:** Kelly Dickinson
**Stat. Auth.:** ORS 351.735(5), 36.100, 36.135, 36.145, 36.155, 36.179
**Stats. Implemented:** ORS 351.735(3)(iii) (f), 36.105, 36.145
**Proposed Adoptions:** 715-013-0066
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** This rule allows for allotment of Dispute Resolution Center Funds to Portland State University and the University of Oregon. It continues the existing split between the two institutions that had been in place under previous policy. Under this rule, Portland State University receives 35% of Dispute Resolution Center Funds and the University of Oregon receives 65%.
**Rules Coordinator:** Kelly Dickinson
**Address:** Higher Education Coordinating Commission, 775 Court St NE, Salem, OR 97301
**Telephone:** (503) 947-2379

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**Rule Caption:** Allotment of Engineering Technology Sustaining Funds

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 1 p.m. | 775 Court Street NE, Small Conference Rm. Salem, OR 97301 |

**Hearing Officer:** Kelly Dickinson
**Stat. Auth.:** ORS 351.735(5)
**Stats. Implemented:** ORS 351.735(3)(iii) (f), Chapter 682 Oregon Laws 2015
**Proposed Adoptions:** 715-013-0062
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** This rule determines the allocation of Engineering Technology Sustaining Funding, which includes support for historical capacity developed at institutions and allocations based on the employment outcomes of Oregon students who graduate in engineering and technology related fields.
**Rules Coordinator:** Kelly Dickinson
**Address:** Higher Education Coordinating Commission, 775 Court St NE, Salem, OR 97301
**Telephone:** (503) 947-2379

**Rule Caption:** Allotment of Signature Research Center Funds

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 1 p.m. | 775 Court Street NE, Small Conference Rm. Salem, OR 97301 |

**Hearing Officer:** Kelly Dickinson
**Stat. Auth.:** ORS 351.735(5)
**Stats. Implemented:** ORS 351.735(3)(iii) (f), 284.720, 284.701
**Proposed Adoptions:** 715-013-0064
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** This rule allows for allotment of Signature Research Center Funds to Oregon State University, Portland State University and the University of Oregon. This rule extends the current funding split between the three institutions that had been in place under previous policy. Under this rule, both Oregon State University and the University of Oregon receive 47.5% of funds while Portland State University receives 5%.
**Rules Coordinator:** Kelly Dickinson
**Address:** Higher Education Coordinating Commission, 775 Court St NE, Salem, OR 97301
**Telephone:** (503) 947-2379

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**Rule Caption:** Allotment of Clinical Legal Education Funds

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 1 p.m. | 775 Court Street NE Small Conference Rm. Salem, OR 97301 |

**Hearing Officer:** Kelly Dickinson
**Stat. Auth.:** ORS 351.735(5)
**Stats. Implemented:** ORS 351.735(3)(iii) (f), 21.007
**Proposed Adoptions:** 715-013-0060
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** This rule allows for allotment of Clinical Legal Education Funds to eligible institutions. Eligible institutions are defined to include ABA-Approved Law Schools at Oregon-based accredited Institutions of Higher Education with a Clinical Legal Program that serves victims of domestic violence.
**Rules Coordinator:** Kelly Dickinson
**Address:** Higher Education Coordinating Commission, 775 Court St NE, Salem, OR 97301
**Telephone:** (503) 947-2379

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## Oregon Business Development Department
## Chapter 123

**Rule Caption:** Thorough modification to rules regarding existence and sponsorship of enterprise zones and technical improvement.
**Stat. Auth.:** ORS 285A.075, 285C.050(5), 285C.060(1), 285C.066, 285C.067(2), 285C.120(2)(b), 285C.140(1)(c) & 285C.370
**Stats. Implemented:** ORS 285C.045, 258C.050–285C.250, 285C.255, 285C.300–285C.320, 285C.353, 285C.403 & 317.131; OL 2015, ch. 648, §§10, 18 & 28
**Proposed Amendments:** Rules in 123-650, 123-656, 123-668
**Last Date for Comment:** 11-6-15, Close of Business
**Summary:** Proposed amendments to divisions 650, 656 and 668, OAR chapter 123, implement chapter 648, Oregon Laws 2015 (Enrolled HB 2643) and make a number of improvements for technical and reading purposes, including:

Clarify effects of removing cap on total number of enterprise zones,

Fundamentally recast systems for zone designations and boundary changes by local sponsoring governments subject to submission and determination by state agency,

Stipulate limitations per jurisdiction or with metropolitan areas,

Update guidelines for submission of geographic information for zone boundary,

Address local notice/consultation with local governments, and

Effect conforming and other changes to the language involving:

- Tribal enterprise zones,
- Potential of designation based on federal enterprise zone,
- Post-designation reporting by local zone sponsor to the agency,
- Local incentives for business firms,
- Fee paid by firms with local application for authorization, and
- Imposition of local additional requirements on firms with special circumstances.

**Rules Coordinator:** Mindee Sublette
**Address:** Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
**Telephone:** (503) 986-0036

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## Oregon Department of Education
## Chapter 581

**Rule Caption:** Amending definition of "Oregon Statewide Assessments" to reflect revisions to areas assessed in Extended Assessment.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 326.051 & 329.075
**Stats. Implemented:** ORS 329.075 & 329.485
**Proposed Amendments:** 581-022-0610
**Last Date for Comment:** 10-22-15, 9 a.m.
**Summary:** This rule updates the definition of "Oregon Statewide Assessments" by updating items in Oregon's Extended Assessment to reflect standards required by Oregon's adoption of the Common Core Standards and Next Generation State Standards, and to parallel the framework of the general assessment.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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**Rule Caption:** Revised guidance to Individual Education Plan teams for selecting statewide assessment for students with IEP.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 343.041, 343.045, 343.055 & 343.151
**Stats. Implemented:** ORS 343.151, 34 CFR 300.320
**Proposed Amendments:** 581-015-2200
**Last Date for Comment:** 10-22-15, 9 a.m.
**Summary:** In order to allow Oregon's assessment models to appropriately measure the student populations they were designed to measure, Oregon Individual Education Plan teams will be required to select the Oregon Extended Assessment as the only option for all subject areas assessed for students with IEPs. This reflects a significant change from previous policy with permitted a student to participate in either test or both.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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**Rule Caption:** Allows exemption to participation in Smarter Balanced math and ELA assessments under Enrolled HB 2655.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 326.051
**Stats. Implemented:** ORS 326.051
**Proposed Amendments:** 581-022-1910
**Last Date for Comment:** 10-22-15, 9 a.m.
**Summary:** HB 2655 establishes a Student Assessment Bill of Rights that permits parents or adult students to annually opt out of the sum-

mative Smarter Balanced assessments by submitting an Opt-out form to the school district; HB 2655 effectively waives the criteria outlined in OAR 581-022-1910: Exemptions that students may only be exempted from state testing based on the student's disability or religion. HB 2655 also applies a different process for parents to submit exemption requests to the district and relieves the parent from the need to propose an alternate learning activity, instead stipulating that the district must provide supervised study time for students who opt out of testing.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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**Rule Caption:** Changes the Executive Order number for Employment Related Transition Services from No.13-04 to No.15-01.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 343.041, 343.045, & 343.055
**Stats. Implemented:** ORS 343.041, 343.045 & 343.055
**Proposed Amendments:** 581-015-2930
**Last Date for Comment:** 10-22-15, 9 a.m.
**Summary:** Executive Order No.13-04 was implemented, July 1, 2013. This initial Executive Order was signed by Governor John Kitzhaber, M.D. and Secretary of State Kate Brown. In February of 2015 the Executive Order was revised and updated and subsequently resigned as Executive Order No.15-01. The amended rule reflects this change.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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**Rule Caption:** Changes in the Beginning Teacher and Administrator Mentoring Program rules aligning with Senate Bill 216.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 326.051 & 329.795
**Stats. Implemented:** ORS 329.790 & 329.820
**Proposed Amendments:** 581-018-0130, 581-018-0145, 581-018-0148
**Last Date for Comment:** 10-22-15, 9 a.m.
**Summary:** Senate Bill 216 adjusted the time requirement for hours of contact between the mentors and beginning teachers and administrators from 90 hours to a range of at least 75-90 hours. The legislation also added priorities to be addressed by the moneys received by the school districts for the mentorship programs, including: (a) efforts to increase the number of culturally and linguistically diverse educators hired, and (b) efforts to close the cultural and linguistic gap between the demographics of the district's teachers and administrators with the demographics of the student served. Additional changes were made in the considerations given for awarding grants on a competetive basis if funds are not sufficient to award all eligible proposals, including (a) the aforementioned priorities, and (b) whether the school district is small or rural.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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**Rule Caption:** Creates complaint procedure for school districts against charter schools operating school or facility in district.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 338.025; 2015 OL Ch. 75, Sec. 1 (Enrolled HB 3044)
**Stats. Implemented:** 2015 OL Ch. 75, Sec. 1 (Enrolled HB 3044)
**Proposed Adoptions:** 581-026-0600
**Last Date for Comment:** 10-22-15, 9 a.m.
**Summary:** The 2015 Legislature adopted House Bill 3044 and the Governor signed the Bill into law. The new law maintains that a school district must receive permission and now requires a public charter school to notify the school board of any other school district, and the school board of the charter's sponsor district, if the charter school uses real property in a school district that is not the district of the sponsor school. The public charter school does not need permission, but State School funds may be withheld if they do not provide appropriate notice. These proposed rules clarify the process for a public charter school to give written notice and for a school district board to file a complaint if written notice is not provided.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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**Rule Caption:** Allows qualifying school districts and charter schools to be one legal entity for audit purposes.

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 11 a.m. | 255 Capitol St. NE, Rm. 200A Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 338.025; 2015 OL Ch. 273, Sec. 1 (Enrolled SB 588)
**Stats. Implemented:** 2015 OL Ch. 273, Sec. 1 (Enrolled SB 588)
**Proposed Amendments:** 581-026-0210
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** Amends rule relating to auditing of public charter schools. Allows public charter school that is the only school in a district, and the school district in which the public charter school is located to be considered a single legal entity if the public charter school is the only school in the school district and: 1) the school does not have to be established as a nonprofit organization under the laws of Oregon; 2) the school does not have to apply to qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code; 3) if all of the members of the school district board are voting members of the public charter school governing body; 4) if the school district and the public charter school share employees; and 5) if the school district and the public charter school share assets and liabilities.
**Rules Coordinator:** Felicia Bechtoldt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5801

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

**Rule Caption:** Revision to List of Medical Billing Codes Excluded from Payment under OHP's FFS Program

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 165 Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 413.042
**Stats. Implemented:** ORS 414.025 & 414.065
**Proposed Amendments:** 410-130-0220
**Proposed Repeals:** 410-130-0220(T)
**Last Date for Comment:** 10-17-15, 5 p.m.

**Summary:** This rule specifies that some medical billing codes will not be accepted for payment because they are for services that are not covered, because payment is bundled under another service, or because the division directs providers to use another code to bill the service. The rule contains a list of these codes. This revision adds and removes codes from this list.
**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:** Amend Rule to Meet Requirements of the HERC Guideline Expanding Coverage of Lymphedema Conditions

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 165 Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 414.065
**Stats. Implemented:** ORS 414.065
**Proposed Amendments:** 410-122-0658
**Last Date for Comment:** 10-17-15, 5 p.m.
**Summary:** Rule changes are necessary to meet requirements of HERC guideline note 43 that provides coverage for compression stockings and sleeves for the treatment of lymphedema even in the absence of an ulcer. The current rule limits coverage for lymphedema when an ulcer is present. The rule changes add coverage for mastectomy sleeves for treatment of post-mastectomy lymphedema as this condition is on a funded line, and it is a medically necessary treatment for this condition. The rule adds prior authorization criteria for custom compression stockings and sleeves to determine if least costly and to manually price. The rule clarifies how many stockings are covered and when a replacement may be requested. The table is amended to remove codes that are no longer valid and add codes that will be covered.
**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:** Amend Rule to Describe Prior Authorization Requirements for Clients Enrolled in CCOs

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 165 Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 414.065
**Stats. Implemented:** ORS 414.065
**Proposed Amendments:** 410-122-0040
**Last Date for Comment:** 10-17-15, 5 p.m.
**Summary:** Amending this rule as it was missed when OHP went from contracting with managed care plans to contracting with CCOs. It adds language that instructs providers to obtain prior authorization from CCOs when a client is enrolled in a CCO.
**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:** Amend Rule to Add Reference to Other Applicable Rules and to Update Tables

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 165 Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 414.065
**Stats. Implemented:** ORS 414.065
**Proposed Amendments:** 410-122-0660
**Last Date for Comment:** 10-17-15, 5 p.m.
**Summary:** The Division needs to amend this rule to add reference to other applicable rules to assist providers in determining coverage guidelines and to amend the tables to remove HCPCS codes that are no longer valid and to add new codes or replacement codes.
**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:** Amend Rule to Add Coverage for a New Incontinence Product and to Update the Table

| Date: | Time: | Location: |
|---|---|---|
| 10-15-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 165 Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 414.065
**Stats. Implemented:** ORS 414.065
**Proposed Amendments:** 410-122-0630
**Last Date for Comment:** 10-15-15, 5 p.m.
**Summary:** This rule is being amended to add coverage for a new HCPCS code for extra-large pull-ups. Extra-large diapers are already covered when prior authorization and coverage criteria are met. The same criteria apply to extra-large pull-ups. Additional housekeeping changes are being done as well.
**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: |
|---|---|---|
| 10-15-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 165 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:** 10-17-15, 5 p.m.
**Summary:** The Pharmaceutical Services program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx based on the P&T (Pharmacy and Therapeutic) Committee recommendations.
**Rules Coordinator:** Sandy Cafourek
**Address:** Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
**Telephone:** (503) 945-6430

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**Rule Caption:** PCCM Program Dissolution of Rules and Program References
**Stat. Auth.:** ORS 413.042
**Stats. Implemented:** ORS 413.042
**Proposed Amendments:** 410-141-0000, 410-141-0080, 410-141-0160, 410-141-0220, 410-141-0320, 410-141-0340, 410-141-0420, 410-141-0860, 410-141-3080
**Proposed Repeals:** 410-141-0085, 410-141-0410, 410-141-0660, 410-141-0680, 410-141-0700, 410-141-0720, 410-141-0740, 410-141-0760, 410-141-0780, 410-141-0800, 410-141-0820, 410-141-0840
**Last Date for Comment:** 10-17-15, 5 p.m.

**Summary:** The Primary Care Case Manager (PCCM) and related references to Primary Care Manager (PCM) programs have been eliminated from the OHP open card service delivery system. There are no longer OHP clients enrolled in the program for care management and oversight. As a result, it is now time to repeal the rules that have provided structure for the PCCM program from the OHP administrative rules and any related references removed from language in other rules listed in this document.
**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:** Update Reference to Current Covered and Non-Covered Dental Services Document, Incorporate Changes to Prioritized List
**Stat. Auth.:** ORS 413.042 & 414.065
**Stats. Implemented:** ORS 414.065
**Proposed Amendments:** 410-123-1220, 410-123-1260
**Proposed Repeals:** 410-123-1220(T), 410-123-1260(T)
**Last Date for Comment:** 10-17-15, 5 p.m.
**Summary:** Effective October 1, 2015, the Health Evidence Review Commission (HERC) removed three oral health codes from funded lines of the Prioritized List of Health Services (Prioritized List). These codes are D1353, D9219, and D9931. The Authority is amending OAR 410-123-1220 and OAR 410-123-1260 to reflect these changes.
**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:** Update Reference to Current ADA Dental Claim Form
**Stat. Auth.:** ORS 413.042 & 414.065
**Stats. Implemented:** ORS 414.065
**Proposed Amendments:** 410-123-1240
**Proposed Repeals:** 410-123-1240(T)
**Last Date for Comment:** 10-17-15, 5 p.m.
**Summary:** The Authority is amending this rule to identify the current version of the dental claim form that is appropriate for billing. The form is already in common use, and this amendment allows this to continue.
**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 Licensing Office, Board of Cosmetology**
**Chapter 817**

**Rule Caption:** Amend civil penalties by increasing fines for frequent violations and better ability to suspend/revoke authorizations.

| Date: | Time: | Location: |
|---|---|---|
| 10-28-15 | 10 a.m. | Health Licensing Office<br>Rhoades Conference Rm.<br>700 Summer St NE, Suite 320<br>Salem, OR 97301 |

**Hearing Officer:** Samie Patnode
**Stat. Auth.:** ORS 676.612, 676.615, 676.992, 690.015, 690.165, 690.167
**Stats. Implemented:** ORS 676.992, 690.015, 690.025, 690.165, 690.167, 690.992
**Proposed Amendments:** 817-090-0025, 817-090-0035, 817-090-0080, 817-090-0090, 817-090-0100
**Proposed Repeals:** 817-090-0050
**Last Date for Comment:** 11-30-15, 5 p.m.
**Summary:** Amend civil penalty schedule by increasing fine amounts for individuals who are repeatedly non-compliant with laws and rules. Amend rules to provide the Board of Cosmetology the ability to suspend and revoke authorizations for individuals who continue to not comply with statutes and rules.

Increase fine amounts for certain safety and infection control penalties including failure to disinfect foot spas and discard disposable articles.

Additional amendments to streamline language and align with Health Licensing Office statutes and rules.
**Rules Coordinator:** Samantha Patnode
**Address:** Health Licensing Office, Board of Cosmotology, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287
**Telephone:** (503) 373-1917

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

**Rule Caption:** Oregon Farm Direct Nutrition Program Administration

| Date: | Time: | Location: |
|---|---|---|
| 11-17-15 | 1:30 p.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 918<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 413.500
**Other Auth.:** 7 CFR 248, 7 CFR 249, Public Law 108-265
**Stats. Implemented:** ORS 413.500
**Proposed Amendments:** 333-052-0040, 333-052-0043, 333-052-0080, 333-052-0120
**Last Date for Comment:** 11-25-15, 5 p.m.
**Summary:** The Oregon Health Authority, Public Health Division is proposing to permanently amend administrative rules in chapter 333, division 52 pertaining to Oregon Farm Direct Nutrition Program (FDNP) participants and farmers that are authorized by the Oregon Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The proposed changes correct terminology that clarifies that civil money penalties may be imposed and not fines. References to the Food Stamp Program will removed as that program is now called the Supplemental Nutrition Assistance Program (SNAP). To reflect changes in the Affordable Care Act (Public Law 111-148) to the Medicaid income eligibility criterion, the Senior FDNP income limit needs to change from 135% to 138% of the federal poverty level. Proposed changes include increasing the Senior participant minimum age to 62 years to maintain the current program budget. Office contact information is also being updated.
**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:** WIC Participant Administration

| Date: | Time: | Location: |
|---|---|---|
| 11-17-15 | 1 p.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 918<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 413.500
**Other Auth.:** 7 CFR 246, Public Law 108-265
**Stats. Implemented:** ORS 413.500
**Proposed Amendments:** 333-053-0040, 333-053-0050, 333-053-0080
**Last Date for Comment:** 11-25-15, 5 p.m.
**Summary:** The Oregon Health Authority, Public Health Division is proposing to permanently amend administrative rules in chapter 333, division 53 as they pertain to participants in the Nutrition & Health Screening - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). These amendments include clarifying

the definition of a WIC participant violation, adding "using a food instrument reported as lost or stolen," and adding "attempting to traffic a food instrument" to help ensure WIC program integrity. "And either reside within the local agency service area" is being deleted as Oregon WIC participants may choose which local agency in which to access services. Amendments also include removing the violation for "failing to notify local agency staff of change of eligibility information" to comply with United States Department of Agriculture (USDA) guidance.

**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:** WIC Vendor and Farmer Administration

| Date: | Time: | Location: |
|---|---|---|
| 11-17-15 | 1 p.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 918<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 413.500
**Other Auth.:** 7 CFR 246, Public Law 108-265
**Stats. Implemented:** ORS 413.500
**Proposed Amendments:** 333-054-0010, 333-054-0020, 333-054-0050, 333-054-0060, 333-054-0070
**Last Date for Comment:** 11-25-15, 5 p.m.
**Summary:** The Oregon Health Authority, Public Health Division is proposing to permanently amend administrative rules in chapter 333, division 54 as they pertain to vendors and farmers that are authorized by the Oregon Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The amendments include a definition, clarifications, and violations for expired food to help ensure program integrity and prevent expired foods from being sold to WIC participants. A rule citation in OAR 333-054-0060(6) is being corrected. In compliance with United States Department of Agriculture changes, the maximum amount for civil money penalties is being updated and the Food Stamp Program is now called the Supplemental Nutrition Assistance Program (SNAP).
**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:** Vital records fee change

| Date: | Time: | Location: |
|---|---|---|
| 10-16-15 | 2:30 p.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 221<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 432.015, 432.035, 432.148, 432.350, 432.435
**Stats. Implemented:** ORS 432.035, 432.148, 432.435
**Proposed Amendments:** 333-011-0205, 333-011-0340
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** The Oregon Health Authority, Public Health Division, Center for Health Statistics is proposing to permanently amend rules in chapter 333, division 11 pertaining to fees for vital records. The rules are being revised to reflect the Oregon Health Authority's budget passed by the Oregon Legislature, effective July 1, 2015.

The new fees take effect January 1, 2016 and require updates to two current rules. The subjects of the rules include fees for vital records issued at the Center for Health Statistics (State Vital Records office) and county Vital Records offices.

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

**Rule Caption:** Primacy to enforce federal regulations providing protection against microbiological contamination and waivers for organic chemicals

| Date: | Time: | Location: |
|---|---|---|
| 10-22-15 | 10 a.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 1B<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 448.131, 448.150
**Other Auth.:** 40 CFR 141
**Stats. Implemented:** ORS 448.131, 448.135, 448.150, 448.278, 448.279, 448.280, 448.285, 448.290, 448.450, 448.455, 448.990
**Proposed Adoptions:** 333-061-0078
**Proposed Amendments:** 333-061-0020, 333-061-0030, 333-061-0031, 333-061-0032, 333-061-0036, 333-061-0040, 333-061-0042, 333-061-0043, 333-061-0045, 333-061-0050, 333-061-0060, 333-061-0063, 333-061-0065, 333-061-0070, 333-061-0071, 333-061-0075, 333-061-0076, 333-061-0077, 333-061-0090, 333-061-0097, 333-061-0235
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** The Oregon Health Authority (Authority), Public Health Division is proposing to permanently amend and adopt Oregon Administrative Rules in chapter 333, division 61 relating to protection against microbiological contamination in public drinking water systems and the prevention of waterborne illness. The rulemaking will ensure that Authority rules are no less stringent than corresponding federal regulations and that the Authority will be granted primary enforcement responsibility (primacy) for the Revised Total Coliform Rule as adopted by the U.S. Environmental Protection Agency (EPA). Amended rules will also ensure primacy for regulations related to monitoring for organic chemicals as well as provide clarification by removing old rule language with no current or future applicability.
**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:** Trauma Hospital Categorization and Resource Standards

| Date: | Time: | Location: |
|---|---|---|
| 10-21-15 | 10 a.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm. 1B<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 431.580, 431.611 & 431.623
**Stats. Implemented:** ORS 431.575–431.671
**Proposed Adoptions:** 333-200-0235, 333-200-0245, 333-200-0250, 333-200-0255, 333-200-0265, 333-200-0275, 333-200-0285, 333-200-0295, 333-200-0300
**Proposed Amendments:** 333-200-0000, 333-200-0010, 333-200-0020, 333-200-0030, 333-200-0035, 333-200-0040, 333-200-0050, 333-200-0060, 333-200-0070, 333-200-0080, 333-200-0090, 333-205-0000, 333-205-0010, 333-205-0020, 333-205-0040, 333-205-0050
**Last Date for Comment:** 10-22-15, 5 p.m.
**Summary:** The Oregon Health Authority (OHA), Public Health Division is proposing to permanently adopt and amend Oregon Administrative Rules in chapter 333, divisions 200 and 205 and Exhibits 1, 3, 4 and 5 relating to the Emergency Medical Services and Trauma System Program.

In accordance with ORS 431.609, the OHA is responsible for the development of a comprehensive statewide trauma system which includes the development of state trauma objectives and standards, and the criteria and procedures utilized in categorizing and designating trauma hospitals. The OHA is directed to categorize hospitals according to trauma care capabilities using standards modeled after the American College of Surgeons (ACS), Committee on Trauma Standards (COT). The OHA is updating these rules given passage of

SB 728 (Oregon Laws 2013, chapter 605) relating to the State Trauma Advisory Board (STAB), updating and aligning Area Trauma Advisory Board requirements with statute, and providing better organization and identifying clearer processes and procedures for classifying and designating trauma hospitals. In 2014, the ACS COT published the 2014, Resources for Optimal Care of the Injured Patient and as such the OHA has amended Exhibits 3, 4 and 5 to align with this revised publication. Exhibit 1 has been revised to reflect changes that have occurred over time to geographic areas and referral patterns.

**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 Military Department,**
**Office of Emergency Management**
**Chapter 104**

**Rule Caption:** Implements HB 2426 (2015) for continued operation of the 9-1-1 emergency communications system.

| Date: | Time: | Location: |
|---|---|---|
| 10-22-15 | 10 a.m. | Anderson Readiness Ctr. (ARC)<br>3225 State St., Rm. 115<br>Salem, OR 97301 |

**Hearing Officer:** Genevieve Ziebell

**Stat. Auth.:** ORS 403.120, HB 2426 (2015)

**Stats. Implemented:** ORS 403.100, 403.105, 403.110, 403.115, 403.120, 403.130, 403.135, 403.137, 403.140, 403.145, 403.150, 403.155, 403.156, 403.160, 403.165, 403.200, 403.205, 403.210, 403.215, 403.220, 403.225, 403.230, 403.235, 403.240, 403.245, 403.250, HB 2426 (2015)

**Proposed Adoptions:** 104-080-0100, 104-080-0110, 104-080-0120, 104-080-0125, 104-080-0130, 104-080-0135, 104-080-0140, 104-080-0150, 104-080-0160, 104-080-0165, 104-080-0170, 104-080-0180, 104-080-0190, 104-080-0195, 104-080-0200, 104-080-0210

**Proposed Amendments:** 104-080-0000

**Proposed Repeals:** 104-080-0010, 104-080-0020, 104-080-0021, 104-080-0022, 104-080-0023, 104-080-0024, 104-080-0025, 104-080-0026, 104-080-0027, 104-080-0028, 104-080-0030, 104-080-0040, 104-080-0050, 104-080-0060, 104-080-0070

**Last Date for Comment:** 11-6-15, 4 p.m.

**Summary:** ORS chapter 403 provides for 9-1-1 services and the operation of the emergency communications system in the State of Oregon. House Bill (HB) 2426 (2015), amended ORS chapter 403 to authorize the Office of Emergency Management (OEM) to adopt standards for the emergency communications system by rule. Previously the statutes set forth the standards for the basic 9-1-1 and enhanced 9-1-1 system. OEM proposes to amend, or repeal and adopt, its rules to set out standards for the emergency communications system. OEM is also proposing to amend its rules to reflect the change in statute now authorizing OEM to pay for certain emergency communications services on behalf of a 9-1-1 jurisdiction in addition to reimbursement to a 9-1-1 jurisdiction.

OEM proposed rules also reorganize OAR 104, division 080.

OEM is amending OAR 104-080-0000 to clarify the purpose statement with the statutory requirements for support of statewide 9-1-1 service.

OEM is proposing to repeal 104-080-0010, 104-080-0020, 104-080-0021, 104-080-0022, 104-080-0023, 104-080-0024, 104-080-0025, 104-080-0026, 104-080-0027, 104-080-0028, 104-080-0030, 104-080-0040, 104-080-0050, 104-080-0060, 104-080-0070 due to the number of proposed amendments to those rules. OEM is proposing to adopt new rules with new numbers to address the subject matter of those rules.

OEM proposes to repeal and adopt new rules for the emergency communications systems to reorganize OAR 104, division 080, and clarify the substantive content. Specifically, OEM proposed changes relate to the following:

- OEM's requirements for collecting and maintaining contact information for 9-1-1 jurisdictions and public safety answering points (PSAPs).
- Requirements for a 9-1-1 jurisdiction's operation of a primary PSAP.
- Procedures for obtaining Automatic Number Identification (ANI) and Automatic Location Identification (ALI) information and performing reverse lookups.
- Processes for official reports and use of non-published ANI and ALI information.
- Requirements for utilities and providers.
- Requirements for a 9-1-1 jurisdiction plan, including disaster plan, and the submission and review processes.
- Standards for the emergency communications system.
- Requirements for provision of services for the deaf or hard of hearing and speech impaired communities including Telephone Typewriter (TTY) services and text-to-9-1-1 services.
- Database requirements.
- Customer premises equipment.
- Funding the emergency communications system, including authorized expenditures from the Emergency Communications Account and the 9-1-1 Subaccount.
- Variance from the OAR 104, division 080, rules.

These proposed new rules would allow for a primary PSAP to provide text-to-9-1-1. All primary PSAPs must have a TTY in order to communicate with individuals with hearing or speech impairments. However, other devices for receiving these emergency calls are now available. Text-to-9-1-1 is defined as a way to communicate with individuals with hearing and speech impairments and is clarified within these proposed rules.

These proposed new rules would define and clarify the requirements for a secure IP network required for the transport of ANI and ALI, Primary PSAP madding data, management information systems, and netclock synchronization for all primary PSAPs in the state of Oregon.

These proposed new rules would also define the use of Geographic Information Systems (GIS), along with the ALI database and the Master Street Address Guide (MSAG) database, in the primary PSAP mapping platform to assist with identifying the location of the emergency caller.

**Rules Coordinator:** Genevieve Ziebell

**Address:** Oregon Military Department, Office of Emergency Management, PO Box 14370, 3225 State St., Rm. 115, Salem, OR 97309-5062

**Telephone:** (503) 378-2911, ext. 22221

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

**Rule Caption:** Implement provisions of Senate Bill 80 in reference to public universities' Optional Retirement Plan.

| Date: | Time: | Location: |
|---|---|---|
| 10-27-15 | 2 p.m. | PERS Boardroom<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |

**Hearing Officer:** Daniel Rivas

**Stat. Auth.:** ORS 238.650, 238A.450

**Stats. Implemented:** ORS 238.015, 243.775, 243.800, 353.250

**Proposed Amendments:** 459-005-0001, 459-005-0310, 459-005-0350

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

**Summary:** Senate Bill 80 (Chapter 767, Oregon Laws 2015), became effective July 27, 2015. Section 2 of SB 80 abolishes the Oregon University System as of July 1, 2015. Each of the seven public universities now has an independent governing board. The rule modifications reflect this change in reference to the universities' Optional Retirement Plan (ORP).

**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Rule Caption:** "Sick time" as used by SB 454 does not constitute "sick leave" for PERS purposes.

| Date: | Time: | Location: |
|---|---|---|
| 10-27-15 | 2 p.m. | PERS Boardroom<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |

**Hearing Officer:** Daniel Rivas
**Stat. Auth.:** ORS 238.650
**Stats. Implemented:** ORS 238.350
**Proposed Amendments:** 459-011-0500
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** Senate Bill 454 (Chapter 537, Oregon Laws 2015), which becomes effective on January 1, 2016, requires Oregon employers to provide a minimum rate of accrual of "sick time" to employees (up to 40 hours per year), whether paid or unpaid. ORS 238.350 allows employers to elect to participate in the unused sick leave program, which affects the calculation of Final Average Salary for Tier One and Tier Two members.

Under that program, employees may accrue sick leave at the lowest rate in effect for the covered group. Staff received many questions from employers regarding the effect of SB 454 on the unused sick leave program. Employers represented that the types of positions expected to be covered by SB 454 (part-time, seasonal, or temporary workers) would not be in PERS "qualifying positions" and, therefore, not be covered by the unused sick leave program.

In addition, the language of SB 454 specifies that this law is not to be construed to "preempt, limit or otherwise impact any employer policy . . . that provides for greater use of paid or unpaid sick time." This language indicates that the legislature specifically intended not to interfere with any similar, existing policy or program. Therefore, construing "sick time" in SB 454 as limiting the "sick leave" used for purposes of ORS 238.350 could have a limiting effect with respect to the number of hours accrued under the PERS program, contrary to the legislative intent.

For these reasons, PERS staff concluded that SB 454 does not impact the unused paid sick leave accrual available to Tier One and Tier Two members under ORS 238.350. The proposed amendments to OAR 459-011-0500 confirm this understanding by specifically stating that "sick time" (the term used by SB 454) does not constitute "sick leave" for PERS purposes.
**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Rule Caption:** Clarify the "contribution start date" for new OPSRP and IAP members under HB 3495 (2015).

| Date: | Time: | Location: |
|---|---|---|
| 10-27-15 | 2 p.m. | PERS Boardroom<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |

**Hearing Officer:** Daniel Rivas
**Stat. Auth.:** ORS 238A.450
**Stats. Implemented:** ORS 238A.330
**Proposed Amendments:** 459-080-0150
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** House Bill 3495 (Chapter 326, Oregon Laws 2015), amending ORS 238A.100 and 238A.330, becomes effective on January 1, 2016. This bill amends the "contribution start date" for new OPSRP and IAP members, such that employer contributions to fund the pension benefit and employee contributions to the IAP will be due for wages attributable to services performed by the employee during the first full pay period following the new member's six-month waiting time. The modifications to OAR 459-080-0150 implement this change for new members as of January 1, 2016.
**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Rule Caption:** Clarify application of partial year rules to Tier One and Tier Two academic employees.

| Date: | Time: | Location: |
|---|---|---|
| 10-27-15 | 2 p.m. | PERS Boardroom<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |

**Hearing Officer:** Daniel Rivas
**Stat. Auth.:** ORS 238.650
**Stats. Implemented:** ORS 238.074
**Proposed Amendments:** 459-010-0012
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** PERS membership is based on employment in a "qualifying position," which generally requires 600 hours of employment in a year. ORS 238.074 provides specific conditions for determining whether an academic employee of a community college has worked 600 hours for all purposes under ORS Chapter 238 (.375 Full Time Equivalent (FTE) on a 12-month basis or .50 FTE on a 9-month basis). The modifications to OAR 459-010-0012 clarify that, for academic employees of community colleges, a year shall be the 12-month period beginning July 1 and ending the following June 30, also known as an "academic year." Under PERS administration of the statute and rule, PERS uses an academic year rather than a calendar year as the standard of measure when determining qualifying position for academic employees of community colleges under OAR 459-010-0003, including during a partial year of employment.
**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Rule Caption:** Clarify tax remedy qualification and add information regarding the timing of EFT payments.

| Date: | Time: | Location: |
|---|---|---|
| 10-27-15 | 2 p.m. | PERS Board Rm.<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |

**Hearing Officer:** Daniel Rivas
**Stat. Auth.:** ORS 238.300, 238.305, 238.650
**Stats. Implemented:** ORS 238.362, 238.364, 238.366, 238.368, 238.372 to 238.384
**Proposed Amendments:** 459-013-0060, 459-013-0310
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** ORS 238.372 prohibits PERS from paying "tax remedy" increases under SB 656 (Chapter 796, Oregon Laws 1991), or HB 3349 (Chapter 569, Oregon Laws 1995) if the benefits are not subject to Oregon personal income tax because the recipient is not an Oregon resident (as provided in ORS 316.127(9)). ORS 238.378 requires PERS and the Department of Revenue (DOR) to share information necessary to determine whether a member's benefit is subject to Oregon income tax. OAR 459-013-0310 explains how PERS uses the information provided by DOR, and residency status information provided by the recipient, to make residency status determinations.

One scenario the current administrative rule did not take into account is how to determine residency when a person files a partial year return (40P) for the tax year in which they submit a residency status form to PERS. The proposed rule modification in new paragraph (2)(a)(G) clarify that, if a person filed a 40P according to DOR data query information and that person also submitted a residency status certification between January 1 and December 15 for the same calendar year, PERS will base residency on the recipient's form,

since the form requires the recipient to certify under penalty of perjury that they are an Oregon resident for income tax purposes. In addition, a new section (4) has been added to provide further clarification that all residency status information received by PERS between December 16 and December 31 of a calendar year will be treated as received the following calendar year.

The modifications to OAR 459-013-0060 are housekeeping edits to conform the administrative rule to current business practice. In section (1), a new subsection was added to clarify that when the first day of the month falls on a weekend or a PERS holiday, retirement benefits processed through electronic funds transfer must be issued no later than the previous business day. A new section (3) was added stating the only exception applies for retirement benefits payable on January 1, which must always be paid in the month of January to avoid exceeding 12 monthly payments in a year.

**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Oregon Youth Authority**
**Chapter 416**

**Rule Caption:** Deleting isolation as a Refocus Option when an offender commits a prohibited behavior.
**Stat. Auth.:** ORS 420A.025
**Stats. Implemented:** ORS 420A.105 & 420A.108
**Proposed Amendments:** 416-470-0020
**Last Date for Comment:** 10-29-15, Close of Business
**Summary:** The proposed amendment is to the Offender Behavior Refocus Option Matrix (Exhibit 1) of OAR 416-470-0020. The amendment deletes the use of isolation as a Refocus Option. The change is to align OAR 416-470-0020 with other OYA rules (OAR 416-490) specific to use of isolation with OYA offenders. Isolation must not be initiated or maintained as punishment.

**Rules Coordinator:** Winifred Skinner
**Address:** Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765
**Telephone:** (503) 373-7570

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

**Rule Caption:** Amend Deschutes Scenic Waterway Rules

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 10-28-15 | 6:30 p.m. | Bend Park & Recreation Office<br>799 SW Columbia St.,<br>Riverbend Community Rm.<br>Bend OR 97702 |

**Hearing Officer:** Chris Havel
**Stat. Auth.:** ORS 390.845
**Stats. Implemented:** ORS 390.845
**Proposed Amendments:** 736-040-0073
**Last Date for Comment:** 10-30-15, 5 p.m.
**Summary:** The proposed amendments to the scenic waterway rules for the Upper Deschutes River Scenic Waterway would remove the restriction on bridge construction in an area where a bicycle and pedestrian bridge across the river is desired. In 2008 the Bend Parks and Recreation District (BPRD) completed a district wide trails plan which identified the need for such a bridge in that segment of the Deschutes river. Current rules do not allow bridge construction of any type.

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

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

## Board of Architect Examiners
## Chapter 806

**Rule Caption:** To specify the experience requirement for registration.
**Adm. Order No.:** BAE 3-2015(Temp)
**Filed with Sec. of State:** 9-14-2015
**Certified to be Effective:** 9-14-15 thru 12-22-15
**Notice Publication Date:**
**Rules Amended:** 806-010-0020, 806-010-0035
**Subject:** To amend the rules to specify the experience requirement for registration.
**Rules Coordinator:** Maria Brown—(503) 763-0662

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

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

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

(b) Complete all the requirements of the IDP; and

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

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

(e) Attend an oral interview before the Board.

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

(a) Complete an Examination Application; and

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

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

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

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

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

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

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

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

(5) All candidates for registration by examination must:

(a) Submit a complete Examination Application; and

(b) Pay required fees; and

(b) Provide all required documentation.

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

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

(b) The minimum passing score is 84%.

(c) Test results may not be challenged.

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

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

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

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

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

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

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

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

(a) Possess an active NCARB Certificate, or

(b) Possess documentary evidence of the following:

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

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

(C) Completion of the NCARB IDP, or two years of consecutive and active practice in architecture in a board-recognized jurisdiction after initial registration;

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

(2) All applicants for registration by reciprocity must:

(a) Complete the Reciprocity Application;

(b) Pay required fees;

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

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

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

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

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

**Rule Caption:** To implement new processes as a result of the passing of SB297.
**Adm. Order No.:** BEELS 5-2015(Temp)
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15 thru 2-12-16
**Notice Publication Date:**
**Rules Adopted:** 820-001-0100, 820-001-0200, 820-005-0001, 820-005-0005, 820-005-0010, 820-005-0015, 820-005-0020, 820-005-0025, 820-005-0030, 820-005-0035, 820-005-0040, 820-005-0045, 820-005-0050, 820-005-0055, 820-005-0060, 820-005-0065, 820-005-0070, 820-005-0075, 820-005-0080, 820-005-0085, 820-005-1000, 820-010-1000, 820-010-1010, 820-010-1020, 820-010-2000, 820-010-2010, 820-010-2020, 820-010-3000, 820-010-3010, 820-010-4000, 820-010-5000, 820-010-5010, 820-020-0050, 820-020-0060, 820-020-0070, 820-080-0005, 820-080-0010, 820-080-1000
**Subject:** To adopt rules that allow the Board to continue processing applications for registration as a professional engineer, land surveyor, photogrammetrist, and for certification as a water right examiner. Although the qualifications for registration or certification have not changed, SB 297 eliminated the two-step application process. The proposed changes allow the applicant to submit an application for registration or certification once the applicant meets the minimum requirements, which include passing the required examinations and obtaining the required experience. Applicants may still gain additional years of experience instead of graduating from an approved curriculum. The proposed changes allow an applicant to complete these requirements in any order prior to submitting an application.

Other housekeeping changes were made to reorganize rules. Over the years, rules that did not apply to licensure were filed under division 10 - Licensing, such as the Board's budget, fees, and refunds and charges. These rule proposals adopt new division 80 - Fees. In addi-

tion, the qualifications for the Board Administrator and the procedure for requesting new branches of a profession were also in division 10 - Licensing. The proposal includes moving them to division 1 - Procedural Rules, while moving the rules for civil penalties to division 15. Further, the definitional rules are proposed to be adopted in the new division 5 - Definitions.

**Rules Coordinator:** Jenn Gilbert—(503) 934-2107

**820-001-0100**
**Request to Add New Branch**

Persons desiring to be registered as a professional engineer, professional land surveyor, or professional photogrammetrist naming a branch other than one listed under OAR 820-010-1000, 820-010-2000, or 820-010-3000 as one in which the individual is especially qualified may petition the Board to amend the list. Procedures are designated in the Model Rules of Procedure under the Administrative Procedure Act, OAR 137-001-0070. Information in the petition shall include:

(1) The public need for recognition of the new discipline;

(2) The number of potential registrants that would be affected;

(3) Whether the new branch is a specialty under an already recognized profession; and

(4) Recommendations for examination sources in that discipline.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-001-0200**
**Qualifications of Administrative Officer (Administrator)**

The administrative officer of the Oregon State Board of Examiners for Engineering and Land Surveying authorized by ORS 670.306 shall:

(1) Not be a member of the Board.

(2) Serve at the pleasure of the Board.

(3) Receive such compensation as the Board may determine.

(4) Perform such duties as assigned by the Board.

Stat. Auth.: ORS 670.306, 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0001**
**Definitions**

The following definitions have been adopted by the Board to assist registrants and the general public in their interpretation of specific portions of OAR Chapter 820 and ORS 672.002 to 672.325.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0005**
**Board**

"Board" means the Oregon State Board of Examiners for Engineering and Land Surveying provided by ORS 672.240.

Stat. Auth.: ORS 182.454, 182.456, 670.310, 672.240, & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0010**
**Branch/Discipline**

The words "branch" and "discipline" are synonymous as used in OAR Chapter 820.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0015**
**Certificate Authority**

"Certificate Authority" is the trusted third party that issues and manages digital certificates (private and public keys) for digital signatures.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0020**
**Digital Certificate**

"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 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0025**
**Digital Signature**

"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.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0030**
**Engineering — Practice**

"Practice of engineering" refers to ORS 672.005 and 672.007.

Stat. Auth.: ORS 670.310, 672.005, 672.007, & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0035**
**Engineering — Work**

"Engineering work," is work performed after a person is 18 years old and involves work of a higher grade and responsibility than that defined as "technician work." Credit for engineering work will only be given for time worked such that persons performing work for more than one entity during a given period of time will not receive multiple credit for dates worked. Time spent in engineering teaching subsequent to graduation shall be listed as "engineering work." Work performed in conjunction with a course of study provided by a community college, college, university, or any other educational program, for which tuition or similar payment is made, credit is earned, or as a requirement of the program, will not be considered "engineering work."

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0040**
**Examination Subversion**

"Examination subversion" is the use of any means to alter the results of an examination to cause the results to inaccurately represent the competency of an examinee.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0045**
**Land Surveying — Practice**

"Practice of land surveying" refers to ORS 672.005 and 672.007.

Stat. Auth.: ORS 670.310, 672.005, 672.007, & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0050**
**Land Surveying — Work**

"Land surveying work" is work performed after a person is 18 years old and involves work of a higher grade and responsibility than that defined as "technician work." Engineering work, not related to the practice of land surveying, is not land surveying work. Credit for land surveying work will only be given for time worked such that persons performing work for more than one entity during a given period of time will not receive multiple credit for dates worked. Work performed in conjunction with a course of study provided by a community college, college, university, or any other educational program, for which tuition or similar payment is made, credit is earned, or as a requirement of the program, will not be considered "land surveying work."

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0055**
**Multiple Registrant**

"Multiple Registrant" means a person who is registered as both a land surveyor and an engineer or is registered as an engineer in two or more disciplines.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0060**
**Photogrammetric Mapping — Practice**

"Practice of photogrammetric mapping" or "practice of photogrammetry" refers to ORS 672.002 and 672.007.

Stat. Auth.: ORS 670.310, 672.002, 672.007, & 672.255

Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0065**
**Photogrammetric — Work**

"Photogrammetric work" is work performed after a person is 18 years old and involves work of a higher grade and responsibility than that defined as "technician work." Credit for photogrammetric work will only be given for time worked such that persons performing work for more than one entity during a given period of time will not receive multiple credit for dates worked. Time spent teaching photogrammetric mapping after graduation is "photogrammetric work." Work performed in conjunction with a course of study provided by a community college, college, university, or any other educational program, for which tuition or similar payment is made, credit is earned, or as a requirement of the program, will not be considered "photogrammetric work."

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0070**
**Professional Development Hour**

Professional Development Hour (PDH) is a contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(1) 1 college semester hour equals 45 PDH.
(2) 1 college quarter hour equals 30 PDH.
(3) 1 continuing education unit equals 10 PDH.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0075**
**Responsible Charge**

"Responsible charge," as used in ORS 672.002(9), means to have supervision and control over engineering work, land surveying work, and photogrammetric mapping work, as evidenced by performing substantially the following:

(1) Establishing the manner or method by which services are rendered;
(2) Establishing quality controls for the services rendered;
(3) Communicating with clients;
(4) Reviewing designs, calculations, plans, surveys or maps;
(5) Supplying deficiencies found in or correcting errors contained in designs, calculations, plans, surveys or maps;
(6) Making changes to documents, including but not limited to, designs, plans, plats, surveys or maps; and
(7) With respect to land surveying, reviewing field evidence and making final decisions concerning the placement of survey monuments and surveyed lines.

Stat. Auth.: ORS 670.310, 672.002, & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0080**
**Supervision and Control**

"Supervision and control," as used in ORS 672.002(10), means establishing the nature of, directing and guiding the preparation of, and approving the work product and accepting responsibility for the work product, as evidenced by performing the following:

(1) Spending time directly supervising the work to assure that the person working under the licensee is familiar with the significant details of the work;
(2) Providing oversight, inspection, observation and direction regarding the work being performed;
(3) Providing adequate training for persons rendering services and working on projects under the licensee;
(4) Maintaining readily accessible contact with the person providing services or performing work by direct proximity or by frequent communication about the services provided or the work performed. Communications between the licensee and persons under the licensee's supervision and control include face-to-face communications, electronic mail, and telephone communications and similar, other communications that are immediate and responsive; and
(5) Applying the licensee's seal and signature to a document.

Stat. Auth.: ORS 670.310, 672.002, & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-0085**
**Technician Work**

"Technician work" means the time spent on work where the personal responsibility and technical knowledge required are small; that is, where the individual performance of a task, set and supervised by others, is all that is required. It shall also include all time spent in work before an applicant is 18 years old "Technician work" does not include engineering work as described in OAR 820-005-0020, land surveying work as described in OAR 820-005-0040, or photogrammetric work as described in OAR 820-005-0050. Engineering "technician work" includes, but is not limited to, work as an inspector, a laboratory assistant, a design assistant, a survey technician, or a draftsperson. Land Surveying "technician work" includes, but is not limited to, work as a survey technician, a draftsperson, an instrument plotter, or computation work under close supervision and not requiring the exercise of judgment in survey or map design, or decisions on boundary location. Photogrammetric mapping "technician work" includes but is not limited to, work as a photogrammetric mapping technician to perform technical photogrammetric or remote sensing tasks to extract spatial data from photographic imagery, digital imagery or other remotely-sensed data under close supervision and not requiring the exercise of judgment in project design or decisions related to authoritative photogrammetric measurements.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-005-1000**
**Acronyms**

(1) ABET — Accreditation Board for Engineering and Technology, Inc.;
(2) ACCE — American Council for Construction Education;
(3) ASAC — Applied Science Accreditation Commission of ABET;
(4) EAC — Engineering Accreditation Commission of ABET;
(5) EI — Engineering Intern;
(6) FE — Fundamentals of Engineering;
(7) FLS — Fundamentals of Land Surveying;
(8) LSI — Land Surveying Intern;
(9) NCEES — National Council of Examiners for Engineering and Surveying;
(10) TAC — Technology Accreditation Commission of ABET;
(11) PE — Professional Engineer;
(12) PLS — Professional Land Surveyor;
(13) RPP — Registered Professional Photogrammetrist;
(14) CWRE — Certified Water Right Examiner.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-1000**
**Qualifications for Registration as a Professional Engineer**

In order to qualify for registration as a Professional Engineer in Oregon, an applicant for registration must provide all of the following:

(1) Evidence satisfactory to the Board of passing or having previously passed the Fundamentals of Engineering examination administered by NCEES.

(2) Evidence satisfactory to the Board of passing or having previously passed a Principles and Practice of Engineering examination:

(a) Administered by NCEES, in a branch of engineering recognized by the Board; or,

(b) Administered by the California Board for Professional Engineers, Land Surveyors, and Geologists, in the Geotechnical branch of engineering; or,

(c) Administered by the Board, in Acoustical Engineering or Forest Engineering.

(3) Evidence satisfactory to the Board of having obtained a Board approved combination of education and experience.

(4) A single application packet, which must include all of the following:

(a) A completed Registration Application form.

(b) Proof of successful passage of the NCEES Fundamentals of Engineering Examination. For Fundamentals of Engineering examinations passed before October 2010, if the Applicant did not pass the examination in Oregon, official verification must be provided by the NCEES licensing jurisdiction. For Fundamentals of Engineering examinations passed in October 2010 or later, the Board will verify passage with NCEES. (Note: The uniform, national examinations are written and scored by the NCEES

and administered by NCEES Exam Administration Services. Please consult NCEES for examination dates, times, locations, cost, and details).

(c) Proof of successful passage of an approved NCEES examination, the California Geotechnical engineering examination, or approved Oregon-specific Principles and Practice of Engineering examination. For NCEES Principles and Practice of Engineering examinations passed before October 2010, if the Applicant did not pass the examination in Oregon, official verification must be provided by the NCEES licensing jurisdiction. For NCEES Principles and Practice of Engineering examinations passed in October 2010 or later, the Board will verify passage with NCEES (Note: An individual who passes an Oregon-specific Principles and Practice of Engineering examination, is not required to notify the Board).

(A) Registration will be available only in the branch for which Applicant was examined; and

(B) Registration will be available only in a branch of engineering recognized by the Board.

(d) Official transcripts of degree or coursework credentials. Official transcripts must show the degree and date awarded. For degrees or coursework not from an ABET accredited program (or, for a four-year baccalaureate construction engineering management program, not from an ACCE accredited program), an NCEES evaluation of the degree or coursework must be provided. The cost of any NCEES Credentials Evaluation must be borne by the Applicant.

(e) A completed Experience Details form describing active practice in engineering work, as defined in OAR 820-005-0035.

(f) Five references from individuals with knowledge of the Applicant's technician work or engineering work:

(A) All five references must attest to the Applicant's ability, professional experience, or both. All five references must complete the Reference Details form provided by the Board and submit the completed Reference Details form directly to the Applicant, in a closed and sealed envelope, signed across the sealed flap by the reference.

(B) All of the Applicant's qualifying engineering work must be verified by at least one reference with direct supervision of that work.

(C) At least three of the five references must hold active Professional Engineer registration in a jurisdiction with NCEES membership.

(D) The Board may, for good cause and upon written application, reduce the number of references required for an Applicant.

(g) For Applicants holding registration in another jurisdiction, in lieu of providing the items listed under (b) to (f) of this subsection, the Applicant may release the Applicant's NCEES Record, if any, to the Board. (Note: See http://ncees.org/records/)

(h) Any and all professional disciplinary records of the Applicant, including but not limited to final orders, letters of reprimand, stipulations, and settlement agreements.

(i) The required application and wall certificate fees.

(5) **Fundamentals of Engineering Exemption.** Notwithstanding subsections (1) and (4) of this rule, an Applicant who has held valid registration as a Professional Engineer in another jurisdiction for 25 years or more is not required to provide evidence of having passed a Fundamentals of Engineering examination in order to qualify for registration as a Professional Engineer in Oregon.

(6) **Oregon Registrants Qualifying in Additional Branches of Engineering.** An individual who holds valid registration as a Professional Engineer in Oregon, but is seeking recognition of special qualification in another branch of engineering recognized by the Board under OAR 820-010-1010 must provide all of the following:

(a) Proof of successful passage of the additional NCEES Principles and Practice of Engineering examination. An individual already registered as an Oregon Professional Engineer who passes an Oregon-specific Principles and Practice of Engineering examination is not required to notify the Board; and,

(b) A completed Additional Branch Registration form with required fees.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-1010**
**Principles and Practice of Engineering Examinations**

(1) **NCEES Examinations.** The uniform, national examinations are written and scored by the NCEES, and administered by NCEES Exam Administration Services in Spring and Fall. (Note: Consult NCEES for examination dates, times, locations, costs, and details.) The NCEES-examined branches of professional engineering recognized by the Board are:

(a) Agricultural (Agricultural and Biological Engineering NCEES examination).

(b) Building Systems (Architectural Engineering NCEES examination).

(c) Chemical.

(d) Civil.

(e) Control Systems.

(f) Electrical (Electrical and Computer Engineering NCEES examination).

(g) Environmental.

(h) Fire Protection.

(i) Industrial.

(j) Mechanical.

(k) Metallurgical (Metallurgical and Materials Engineering NCEES examination).

(l) Naval Architecture and Marine.

(m) Nuclear.

(2) The California examination branch recognized by the Board is Geotechnical. (Note: The California Geotechnical Engineering Examination is written, scored, and administered by the State of California, but is available at Oregon test sites. Consult the California Board for Professional Engineers, Land Surveyors, and Geologists for examination dates, times, test site locations, cost, and details).

(3) **Oregon Specific Examinations.** The Oregon Specific examinations are written, scored, and administered by the Board. (Note: See http://www.oregon.gov/OSBEELS/Pages/index.aspx for examination dates, times, costs, and details.)

(a) Oregon examination branches recognized by the Board are:

(A) Acoustical.

(B) Forest.

(b) The Acoustical Engineering Examination and Forest Engineering Examination are each held once a year, in April. To sit for the Acoustical Engineering Examination or Forest Engineering Examination, a completed Examination form and required examination fee must be postmarked or hand delivered to the Board office by 5:00 p.m. on February 1.

(c) To withdraw from the Acoustical Engineering Examination or Forest Engineering Examination, and forward the Examination form and examination fees to the following year, a written request to withdraw and forward the Examination form and examination fees must be received by the Board offices no later than March 1. Examination forms and fees may only be forwarded upon withdrawal once. After one withdrawal, the original Examination form will no longer be forwarded and examination fees will not be forwarded or refunded.

(d) To withdraw from the Acoustical Engineering Examination or Forest Engineering Examination without forwarding, and request a refund of the fees, a written request to withdraw and for the fees to be refunded must be received by the Board offices no later than March 1. After one withdrawal, examination fees will not be refunded.

(e) The cutoff scores for the Acoustical Engineering Examination and Forest Engineering Examination are 70 points out of 100 points.

(f) Examinees may request reasonable accommodations to the examination's administration.

(A) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.

(B) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation, by the deadline of February 1.

(4) **Review of Examinations.** With respect to the Acoustical Engineering and Forest Engineering Examinations administered by the Board, the Applicant may submit a written request to review the Applicant's own examination results. The Board will allow a two-hour examination review when the Applicant failed the examination and the Applicant achieved a score within five points of the cutoff score. With respect to such reviews;

(a) The Applicant may examine the test booklet, solution pamphlet and answer key.

(b) The Acoustical Engineering and Forest Engineering Examination applicant may review the examination on only one occasion. The Board will prescribe a time and place for the review. Applicants must notify the Board at least five days before the scheduled date that they review their examinations. Applicants who fail to review their examination at the pre-

scribed time and place will not be allowed to reschedule a review of the examination.

(c) All examination reviews will be conducted in the presence of a person designated by the Board.

(d) Except as allowed by the Board for persons requiring disability assistance, no person may accompany the Applicant during the examination review.

(e) The Applicant will not take any materials into nor remove any materials from the location where the examination review is conducted.

(f) The Applicant may prepare and submit a written request for rescoring the Applicant's examination, provided that the Applicant's score otherwise satisfies the requirements of this section, while at the location where the examination review is conducted.

(5) The Board may rescore an essay response for a qualified applicant if the applicant demonstrates, in writing, sufficient technical justification that their solution deserves reconsideration. The Board's rescore determination is final and not subject to further review. An applicant requesting the Board to rescore an examination must submit a complete written request within the two-hour timeframe.

(6) **Oregon Specific Examination Subversion.**

(a) An application of any Applicant who is under investigation by the Board for examination subversion, as defined in OAR 820-005-0040, will not be considered by the Board until the investigation and any ensuing disciplinary action are complete.

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of registration. A Registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of registration.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-1020**
**Education and Experience Requirements for Registration as a Professional Engineer**

The following combinations of education and experience may be used to satisfy subsection (3) of OAR 820-010-1000 (Qualifications for Registration as a Professional Engineer):

(1) **Accredited Baccalaureate Degree in Engineering or Construction Engineering Management, and Four Years of Experience.**

(a) Graduation from:

(A) EAC of ABET accredited baccalaureate of engineering degree program;

(B) TAC of ABET accredited baccalaureate of engineering degree program; or

(C) ACCE accredited four-year baccalaureate of construction engineering management degree program; and

(b) Four years of active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in engineering, from a college or university that offers an EAC of ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of the rule.

(2) **Accredited Two Year Degrees, Specified Coursework, and Four Years of Experience.**

(a) Graduation from:

(A) TAC of ABET accredited two-year Engineering Technology program that includes:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;

(iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra);

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; or

(B) TAC of ABET accredited two-year Associate of Applied Science degree program in Engineering Technology that includes:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;

(iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra);

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; and

(b) Completion of additional course work consisting of 21 semester or 32 quarter hours in at least six of the nine following subjects: Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals, and Strength of Materials; and

(c) Four years of active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(3) **Accredited Two Year Degrees and Six Years of Experience.**

(a) Graduation from:

(A) TAC of ABET accredited two-year Engineering Technology program that includes:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;

(iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra); and,

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; or

(B) TAC of ABET accredited two-year Associate of Applied Science degree program in Engineering Technology that includes:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;

(iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra); and,

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; and

(b) Six years of active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or six years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(4) **Graduate Degree in Engineering and Four Years of Experience.**

(a) Graduation from a graduate degree program in engineering at a college or university that offers an EAC of ABET accredited undergraduate degree in the same program as the graduate degree;

(b) Completion of 21 semester or 32 quarter hours of engineering related technical course work, which shall include at least six of the nine following subjects: Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals, and Strength of Materials; and

(c) Four years of active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

**(5) Non-accredited Baccalaureate Degree in Engineering and Four Years of Experience.**

(a) Graduation from a four-year baccalaureate degree program in engineering, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to the educational requirements in subsection (1) of this rule; and

(b) Four years of active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in engineering, from a college or university that offers an EAC of ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of the rule.

**(6) Course work from an Accredited Baccalaureate Program in Engineering, Accredited Two-Year Program in Engineering Technology, Qualifying Graduate Program, or Equivalent Baccalaureate Program in Engineering, with Additional Experience.**

(a) Course work from a qualifying program identified in subsections (1) to (5) of this rule, without graduation from that program, may be considered toward qualifying an Applicant for registration to the extent that the course work involves engineering principles or was obtained by the Applicant while enrolled in that engineering program.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Engineer.

(c) When relying on course work from a qualifying program identified in subsections (1) to (5) of this rule, without graduation from that program, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's engineering work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

(7) **Non-accredited Baccalaureate Degree in Engineering, with Additional Experience.**

(a) Graduation from a non-accredited baccalaureate degree program evaluated by NCEES Credential Evaluations, which is determined by the Board not to be substantially equivalent to the educational requirements in subsection (1) of this rule, course work from that program may be considered toward qualifying an Applicant for registration to the extent that the course work involves engineering principles. The cost of any NCEES Credentials Evaluation must be borne by the Applicant.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Engineer.

(c) When relying on course work credit from a non-accredited degree that has been evaluated by NCEES Credential Evaluations but determined by the Board not to be equivalent to a degree from a program identified in subsection (1) of this rule, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's engineering work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

(8) **Military Experience and Training.**

(a) Military experience and training may be considered as qualifying for the required education and experience under this rule if is evaluated by the Joint Services Transcript (JST) and the Board determines that it is substantially equivalent to the education and experience listed in subsections (1), (2), (3) or (4) of this rule.

(b) Military experience and training that is not determined to be substantially equivalent to the education and experience listed in subsections (1), (2), (3) or (4) of this rule may be considered toward qualifying an Applicant for registration to the extent that the experience and training involves engineering principles or qualifies as experience.

(c) The Board will determine the amount of educational credit, if any, the military training and experience will be given towards qualifying the Applicant for registration as a Professional Engineer.

(d) If applying with military training and experience, whether by qualifying military experience alone, a combination of educational credit and qualifying military experience, or a combination of educational credit, qualifying military experience, and qualifying non-military experience, an Applicant must demonstrate that the Applicant's training and experience is equivalent to a total of 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for military training and experience under this subsection, must demonstrate 10 years of qualifying education, experience, or both outside of the military.

(e) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

(9) **Experience Only.**

(a) 12 years of qualifying experience.

(b) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0035, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-2000**
**Qualifications for Registration as a Professional Land Surveyor**

In order to qualify for registration as a Professional Land Surveyor in Oregon, an applicant for registration must provide all of the following:

(1) Evidence satisfactory to the Board of passing or having previously passed the Fundamentals of Land Surveying examination administered by NCEES.

(2) Evidence satisfactory to the Board of passing or having previously passed a Board approved Principles and Practice of Land Surveying examination administered by NCEES.

(3) Evidence satisfactory to the Board of passing or having previously passed an Oregon-specific four hour land surveying examination, approved by the Board and covering the United States Public Land Survey system, Oregon laws relating to land surveying, and other matters as determined by the Board.

(4) Evidence satisfactory to the Board of having obtained a Board approved combination of education and experience.

(5) A single application packet, which must include all of the following:

(a) A completed Registration Application form.

(b) Proof of successful passage of the NCEES Fundamentals of Land Surveying Examination. For Fundamentals of Land Surveying examinations passed before October 2010, if the Applicant did not pass the examination in Oregon, official verification must be provided by the NCEES licensing jurisdiction. For Fundamentals of Land Surveying examinations passed in October 2010 or later, the Board will verify passage with NCEES. (Note: The uniform, national examinations are written and scored by the NCEES and administered by NCEES Exam Administration Services. Please consult NCEES for examination dates, times, locations, cost, and details).

(c) Official verification of successful passage of a Board approved NCEES Principles and Practice of Surveying examination. For NCEES Principles and Practice of Surveying examinations passed before October 2010, if the Applicant did not pass the examination in Oregon, official verification must be provided by the NCEES licensing jurisdiction. For NCEES Principles and Practice of Surveying examinations passed in October 2010 or later, the Board will verify passage with NCEES.

(d) Official transcripts of degree or coursework credentials. Official transcripts must show the degree and date awarded. For degrees or coursework not from an ABET accredited program, NCEES evaluation of the

degree or coursework credentials. The cost of any NCEES Credentials Evaluation must be borne by the Applicant.

(e) A completed Experience Details form describing active practice in land surveying work, as defined in OAR 820-005-0050.

(f) Five references from individuals with knowledge of the Applicant's technician work or land surveying work:

(A) All five references must attest to the Applicant's ability, professional experience, or both. All five references must complete the Reference Details form provided by the Board and submit the completed Reference Details form directly to the Applicant, in a closed and sealed envelope, signed across the sealed flap by the reference.

(B) All of the Applicant's qualifying land surveying work must be verified by at least one reference with direct supervision of that work.

(C) At least three of the five references must hold active Professional Land Surveyor registration in an NCEES jurisdiction.

(D) The Board may, for good cause and upon written application, reduce the number of references required for an Applicant.

(g) For Applicants holding registration in another jurisdiction, in lieu of providing the items listed under (b) to (f) of this subsection, the Applicant may release the Applicant's NCEES Record, if any, to the Board. (Note: See http://ncees.org/records/).

(h) Any and all professional disciplinary records of the Applicant, including but not limited to final orders, letters of reprimand, stipulations, and settlement agreements.

(i) The required application and wall certificate fees.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-2010**
**Oregon Specific Four-Hour Land Surveying Examination**

(1) The Oregon Specific Four-Hour Land Surveying Examination is held twice a year, in April and October. To sit for the Oregon Specific Four-Hour Land Surveying Examination, a completed Examination form and required examination fee must be received by the Board offices no later than February 1 for the April examination and no later than August 1 for the October examination. (Note: See http://www.oregon.gov/OSBEELS/Pages/index.aspx for examination dates, times, costs, and details).

(2) To withdraw from the Oregon Specific Four-Hour Land Surveying Examination, and forward the Examination form and examination fees to the next examination administration, a written request to withdraw and forward the Examination form and examination fees must be received by the Board offices no later than March 1 for the April Examination and no later than September 1 for the October examination. Examination forms and fees may only be forwarded upon withdrawal once, and only to the next examination administration. After one withdrawal, the original Examination form will no longer be forwarded and examination fees will not be forwarded or refunded.

(3) To withdraw from the Oregon Specific Four-Hour Land Surveying Examination without forwarding, and request a refund of the fees, a written request to withdraw and for the fees to be refunded must be received by the Board offices no later than March 1 for the April examination and no later than September 1 for the October examination. After one withdrawal, examination fees are non-refundable.

(4) The cutoff score for the Oregon Specific Four-Hour Land Surveying Examination is 70 points out of 100 points.

(5) Examinees may request reasonable accommodations to the examination's administration.

(a) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.

(b) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation, by the applicable deadline.

(6) **Review of Examinations.** With respect to the Oregon Specific Four-Hour Land Surveying Examination administered by the Board, the Applicant may submit a written request to review the Applicant's own examination results. The Board will allow a two-hour examination review when the Applicant failed the examination and the Applicant achieved a score within five points of the cutoff score. With respect to such reviews;

(a) The Applicant may examine the test booklet, solution pamphlet and answer key.

(b) The Oregon Specific Four-Hour Land Surveying Examination applicant may review the examination on only one occasion. The Board will prescribe a time and place for the review. Applicants must notify the Board at least five days before the scheduled date that they review their examinations. Applicants who fail to review their examination at the prescribed time and place will not be allowed to reschedule a review of the examination.

(c) All examination reviews will be conducted in the presence of a person designated by the Board.

(d) Except as allowed by the Board for persons requiring disability assistance, no person may accompany the Applicant during the examination review.

(e) The Applicant will not take any materials into nor remove any materials from the location where the examination review is conducted.

(f) The Applicant may prepare and submit a written request for rescoring the Applicant's examination, provided that the Applicant's score otherwise satisfies the requirements of this section, while at the location where the examination review is conducted.

(7) The Board may rescore an essay response for an Applicant if the Applicant demonstrates, in writing, sufficient technical justification that their solution deserves reconsideration. The Board's rescore determination is final and not subject to further review. An Applicant requesting the Board to rescore an examination must submit a complete written request within the two-hour timeframe.

(8) **Examination Subversion.**

(a) Any Applicant who is under investigation for examination subversion, as defined in OAR 820-005-0085 will not be considered by the Board until the investigation and any ensuing disciplinary action are complete.

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of registration. A Registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of registration.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-2020**
**Education and Experience Requirements for Registration as a Professional Land Surveyor**

The following combinations of education and experience may be used to satisfy subsection (4) of OAR 820-010-2000 (Qualifications for Registration as a Professional Land Surveyor):

(1) **Accredited Four Year Baccalaureate Degree in Land Surveying and Four Years of Experience.**

(a) Graduation from:

(A) EAC of ABET accredited baccalaureate of land surveying degree program;

(B) TAC of ABET accredited baccalaureate of land surveying degree program; or

(C) ASAC of ABET accredited baccalaureate of land surveying degree program.

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or TAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(2) **Accredited Four Year Baccalaureate Degree in Engineering, Additional Course Work, and Four Years of Experience.**

(a) Graduation from:

(A) TAC of ABET accredited baccalaureate of engineering degree program with 11 semester or 16 quarter hours of surveying instruction and surveying law;

(B) EAC of ABET accredited baccalaureate of engineering degree program with 11 semester or 16 quarter hours of surveying instruction and surveying law; or

(C) ACCE accredited baccalaureate of engineering degree program with 11 semester or 16 quarter hours of surveying instruction and surveying law.

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or TAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(3) **Accredited Two Year Degree in Land Surveying Meeting Specific Criteria, with Six Years of Experience.**

(a) Graduation from:

(A) ASAC of ABET accredited two-year Surveying Technology program that includes:

(i) A total of at least 46 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as: college level algebra; college level trigonometry; college level statistics; science; basic electricity; hydraulics; road design; construction management and estimating; engineering economics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications;

(B) TAC of ABET accredited two-year Surveying Technology program that includes the following:

(i) A total of at least 46 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications; or

(C) TAC of ABET accredited Associate of Applied Science degree program in Surveying Technology program that includes the following:

(i) A total of at least 46 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or six years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(4) **Accredited Two Year Degree in Engineering Meeting Specific Criteria, with Six Years of Experience.**

(a) Graduation from a TAC of ABET accredited Associate of Applied Science degree program in Engineering Technology that includes the following:

(A) A total of at least 46 semester or 96 quarter hours;

(B) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(C) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(D) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or six years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(5) **Graduate Degree in Land Surveying and Four Years of Experience.**

(a) Graduation from a post-baccalaureate degree program in land surveying at a college or university that offers an ABET accredited undergraduate degree program in the same field.

(b) Completion of 11 semester or 16 quarter hours of surveying instruction from a college or university with an ABET accredited undergraduate degree program in land surveying or land surveying technology.

(c) Four years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(6) **Accredited Baccalaureate Degree Related to Land Surveying or Engineering and Four Years of Experience.**

(a) Graduation from an EAC, TAC, or ASAC of ABET accredited baccalaureate degree program related to engineering or land surveying that includes:

(A) 21 semester or 32 quarter hours of course work with a direct focus on geomatics that requires direct application of geomatics knowledge and skills. At least one of these courses must be related to surveying law;

(B) 27 semester or 40 quarter hours of course work that requires the application of mathematics for problem solving. At least one of these courses must focus on the integration of differential and integral calculus;

(C) 24 semester or 35 quarter hours of course work related to physical and natural sciences, with laboratory application; and

(D) 4 semester or 6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in problem solving.

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(7) **Non-accredited Baccalaureate Degree in Land Surveying with Four Years of Experience.**

(a) Graduation from a four-year baccalaureate degree program in land surveying, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to the educational requirements in subsection (1) of this rule; and

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in surveying, from a college or university that offers an ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(8) **Accredited Baccalaureate Degree with "Core Requirements" or Non-accredited Baccalaureate Degree with "Core Requirements," and Six Years of Experience.**

(a) Graduation from an ABET accredited Bachelor of Science baccalaureate degree program that is not a degree in "land surveying," if the curriculum for that degree includes all of the following:

(A) 18 semester credit hours of mathematics and basic sciences, including:

(i) At least 12 semester credit hours in mathematics beyond basic mathematics, such as college algebra and higher mathematics, and that focus on mathematical concepts and principles rather than computation. Such courses include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) At least 6 semester credits must be in the basic sciences, including one or more of the following topics: biology, general or advanced chemistry, geology, ecology, general or advanced physics.

(B) At least 16 college semester credit hours of general education courses, excluding routine exercises of personal craft. Such courses include, philosophy, religion, history, literature, fine arts, sociology, social sciences, economics, and professional ethics and responsibility.

(C) At least 30 college semester credit hours of surveying science and practice, taught by qualified surveying faculty as determined by the Board, and which must include basic and route surveying, geodesy, Geographic Information Systems or Global Positioning Systems, land development design and planning, mapping, photogrammetry or remote sensing, and surveying law; or

(b) Graduation from a Bachelor of Science baccalaureate degree program that is not a degree in "land surveying" and is not ABET accredited, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to an ABET accredited Bachelor of Science baccalaureate degree program that includes all of the following:

(A) 18 semester credit hours of mathematics and basic sciences, including:

(i) At least 12 semester credit hours in mathematics beyond basic mathematics, such as college algebra and higher mathematics, and that focus on mathematical concepts and principles rather than computation. Such courses include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) At least 6 semester credits must be in the basic sciences, including one or more of the following topics: biology, general or advanced chemistry, geology, ecology, general or advanced physics.

(B) At least 16 college semester credit hours of general education courses, excluding routine exercises of personal craft. Such courses include, philosophy, religion, history, literature, fine arts, sociology, social sciences, economics, and professional ethics and responsibility.

(C) At least 30 college semester credit hours of surveying science and practice, taught by qualified surveying faculty, and which must include basic and route surveying, geodesy, Geographic Information Systems or Global Positioning Systems, land development design and planning, mapping, photogrammetry or remote sensing, and surveying law. Graduate-level surveying classes may be evaluated by NCEES for consideration in fulfilling the requirements of this sub-paragraph.

(D) The costs of any NCEES evaluation shall be borne by the Applicant.

(c) In addition to fulfilling the degree requirements of either subsection (a) or (b) above, the Applicant must also have completed six years of active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered land surveyor; or six years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(9) **Course work from an Accredited Baccalaureate Program in Land Surveying or Engineering, Accredited Two-Year Program in Land Surveying Technology or Applied Science in Land Surveying or Engineering, Qualifying Graduate Program, or Equivalent Baccalaureate Program in Land Surveying or Engineering, with Additional Experience.**

(a) Course work from a qualifying program identified in subsections (1) to (4), (6), (7), or (8) of this rule, without graduation from that program, may be considered toward qualifying an Applicant for registration to the extent that the course work involves the following classes:

(A) Advanced mathematics, including college algebra, probabilities and statistics, or higher mathematics, all of which must emphasize mathematical concepts and principles rather than computation;

(B) Geology;

(C) Biology;

(D) Ecology;

(E) General or advanced physics;

(F) General or advanced chemistry;

(G) Surveying law;

(H) Basic or route surveying;

(I) Geodesy;

(J) Geographic Information or Global Positioning Systems;

(K) Land development design and planning;

(L) Photogrammetry;

(M) Mapping;

(N) Remote sensing.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Land Surveyor.

(c) When relying on course work from a qualifying program identified in subsections (1) to (4), (6), (7), or (8) of this rule, without graduation from that program, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's qualifying land surveying work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(10) **Military Experience and Training.**

(a) Military experience and training may be considered as qualifying for the required education and experience under this rule if is evaluated by the Joint Services Transcript (JST) and the Board determines that it is substantially equivalent to the education and experience listed in subsections (1) to (4), (6), or (7) of this rule.

(b) Military experience and training that is not determined to be substantially equivalent to the education and experience listed in sections (1) to (4), (6), (7), or (8) of this rule may be considered toward qualifying an Applicant for registration to the extent that the experience and training involves the subjects listed in subsection (9)(a) of this rule, or to the extent it qualifies as experience.

(c) The Board will determine the amount of educational credit, if any, the military training and experience will be given towards qualifying the Applicant for registration as a Professional Land Surveyor.

(d) If applying with military training and experience, whether by qualifying military experience alone, a combination of educational credit and qualifying military experience, or a combination of educational credit, qualifying military experience, and qualifying non-military experience, an Applicant must demonstrate that the Applicant's training and experience is equivalent to a total of 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for military training and experience under this subsection, must demonstrate 10 years of qualifying education, experience, or both outside of the military.

(e) Qualifying experience under this subsection is:

(A) Active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(11) **Experience Only.**

(a) 12 years of qualifying experience.

(b) Qualifying experience under this subsection is:

(A) Active practice in land surveying work as defined in OAR 820-005-0050, in the Applicant's area of competence, and under the direction and supervision of a registered engineer; or

(B) Active practice in land surveying work while registered in another jurisdiction with NCEES membership.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-3000**
**Qualifications for Registration as a Professional Photogrammetrist**

In order to qualify for registration as a Professional Photogrammetrist in Oregon, an applicant for registration must provide all of the following:

(1) Evidence satisfactory to the Board of passing or having previously passed the Fundamentals of Land Surveying examination administered by NCEES.

(2) Evidence satisfactory to the Board of passing or having previously passed a Board approved examination in practical photogrammetric mapping problems written and scored by the Colonial States Boards of Surveyor Registration (CSBSR). Candidates may sit for the examination in Oregon, but must contact the OSBEELS to do so, as well as for examination costs, times, dates, and details.

(a) Examinees may request reasonable accommodations to the examination's administration.

(A) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.

(B) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation.

(b) The deadline to request reasonable accommodations is one month prior to sitting for the examination.

(3) Evidence satisfactory to the Board of having obtained a Board approved combination of education and experience. Experience as a full-time assistant professor or professor, teaching a Board approved photogrammetric curriculum may, at the Board's discretion, qualify as experience in photogrammetric work.

(4) A single application packet, which must include all of the following:

(a) A completed Registration Application form.

(b) Proof of successful passage of the NCEES Fundamentals of Land Surveying Examination. For Fundamentals of Land Surveying examinations passed before October 2010, if the Applicant did not pass the examination in Oregon, official verification must be provided by the NCEES licensing jurisdiction. For Fundamentals of Land Surveying examinations passed in October 2010 or later, the Board will verify passage with NCEES. (Note: The uniform, national examinations are written and scored by the NCEES and administered by NCEES Exam Administration Services. Please consult NCEES for examination dates, times, locations, cost, and details).

(c) Official verification of successful passage of a Board approved examination in practical photogrammetric mapping problems written and scored by the Colonial States Boards of Surveyor Registration (CSBSR). (Note: For the examination times, places costs and details, please contact the OSBEELS or, if sitting for the examination outside of Oregon, the state in which you wish to sit for the examination).

(d) Official transcripts of degree or coursework credentials. Official transcripts must show the degree and date awarded. For degrees or coursework not from an ABET accredited program, NCEES evaluation of the degree or coursework credentials. The cost of any NCEES Credentials Evaluation must be borne by the Applicant.

(e) A completed Experience Details form describing active practice in photogrammetric mapping work, as defined in OAR 820-005-0065.

(f) Five references from individuals with knowledge of the Applicant's technician work or photogrammetric mapping work:

(A) All five references must attest to the Applicant's ability, professional experience, or both. All five references must complete the Reference Details form provided by the Board and submit the completed Reference Details form directly to the Applicant, in a closed and sealed envelope, signed across the sealed flap by the reference.

(B) All of the Applicant's qualifying photogrammetric mapping work must be verified by at least one reference with direct supervision of that work.

(C) At least three of the five references must hold active Professional Photogrammetrist registration, Professional Land Surveyor registration, or Professional Engineer registration in jurisdiction with NCEES membership.

(D) The Board may, for good cause and upon written application, reduce the number of references required for an Applicant.

(g) For Applicants holding registration in another jurisdiction, in lieu of providing the items listed under (b) to (f) of this subsection, the Applicant may release the Applicant's NCEES Record, if any, to the Board. (Note: See http://ncees.org/records/).

(h) Any and all professional disciplinary records of the Applicant, including but not limited to final orders, letters of reprimand, stipulations, and settlement agreements.

(i) The required application and wall certificate fees.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-3010**
**Education and Experience Requirements for Registration as a Professional Photogrammetrist**

The following combinations of education and experience may be used to satisfy subsection (4) of OAR 820-010-3000 (Qualifications for Registration as a Professional Photogrammetrist):

(1) **Accredited Four Year Baccalaureate Degree in Land Surveying and Four Years of Experience.**

(a) Graduation from:

(A) EAC of ABET accredited four-year baccalaureate of land surveying;

(B) TAC of ABET accredited four-year baccalaureate of land surveying program; or

(C) ASAC of ABET accredited four-year baccalaureate of land surveying program.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or TAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(2) **Accredited Four Year Baccalaureate Degree in Engineering, Additional Course Work, and Four Years of Experience.**

(a) Graduation from:

(A) TAC of ABET accredited baccalaureate of engineering program with 11 semester or 16 quarter hours of surveying instruction and surveying law;

(B) EAC of ABET accredited baccalaureate of engineering program with 11 semester or 16 quarter hours of surveying instruction and surveying law; or

(C) ACCE accredited baccalaureate of engineering program with 11 semester or 16 quarter hours of surveying instruction and surveying law.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or TAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(3) **Accredited Two Year Degree in Land Surveying Meeting Specific Criteria, with Six Years of Experience.**

(a) Graduation from:

(A) ASAC of ABET accredited Surveying Technology program that includes:

(i) A total of at least 46 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications;

(B) TAC of ABET accredited two-year Surveying Technology program that includes the following:

(i) A total of at least 46 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications; or

(C) TAC of ABET accredited Associate of Applied Science in Surveying Technology program that includes the following:

(i) A total of at least 46 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(4) **Accredited Two Year Degree in Engineering Meeting Specific Criteria, with Six Years of Experience.**

(a) Graduation from a TAC of ABET accredited Associate of Applied Science in Engineering Technology program that includes the following:

(A) A total of at least 46 semester or 96 quarter hours;

(B) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 6 quarter hours are in surveying instruction;

(C) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(D) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(5) **Graduate Degree in Land Surveying or Geomatics-based program and Four Years of Experience.**

(a) Graduation from a graduate degree program in land surveying at a college or university that offers an ABET accredited undergraduate degree program in the same field.

(b) Completion of 11 semester or 16 quarter hours of surveying instruction from a college or university with an ABET accredited undergraduate degree program in land surveying or land surveying technology.

(c) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(6) **Accredited Baccalaureate Degree Related to Land Surveying or Engineering and Four Years of Experience.**

(a) Graduation from a EAC, TAC, or ASAC of ABET accredited baccalaureate degree related to engineering or land surveying that includes:

(A) 21 semester or 32 quarter hours of course work with a direct focus on geomatics that requires direct application of geomatics knowledge and skills. At least one of these courses must be related to surveying law;

(B) 27 semester or 40 quarter hours of course work that requires the application of mathematics for problem solving. At least one of these courses must focus on the integration of differential and integral calculus;

(C) 24 semester or 35 quarter hours of course work related to physical and natural sciences, with laboratory application; and

(D) 4 semester or 6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in problem solving.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(7) **Non-accredited Baccalaureate Degree in Land Surveying with Four Years of Experience.**

(a) Graduation from a four-year baccalaureate program in land surveying, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to the educational requirements in subsection (1) of this rule; and

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in surveying, from a college or university that offers an ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of the rule.

(8) **Non-accredited Baccalaureate Degree with "Core Requirements" with Six Years of Experience.**

(a) Graduation from a four-year baccalaureate program in land surveying, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to a degree that includes the following:

(A) 18 semester credit hours of mathematics and basic sciences, including:

(i) At least 12 semester credit hours in mathematics beyond basic mathematics, such as college algebra and higher mathematics, and that focus on mathematical concepts and principles rather than computation. Such courses include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) At least 6 semester credits must be in the basic sciences, including one or more of the following topics: biology, general or advanced chemistry, geology, ecology, general or advanced physics;

(B) At least 16 college semester credit hours of general education courses, excluding routine exercises of personal craft. Such courses include, philosophy, religion, history, literature, fine arts, sociology, social sciences, economics, and professional ethics and responsibility;

(C) At least 30 college semester credit hours of surveying science and practice, taught by qualified surveying faculty. Graduate-level surveying classes may be evaluated by NCEES for consideration in fulfilling the requirements of subsection (a)(C) above.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(9) **Course work from an Accredited Baccalaureate Program in Land Surveying or Engineering, Accredited Two-Year Program in Land Surveying Technology or Applied Science in Land Surveying or Engineering, Qualifying Graduate Program, or Equivalent Baccalaureate Program in Land Surveying or Engineering, with Additional Experience.**

(a) Course work from a qualifying program identified in subsections (1) to (4), (6), (7), or (8) of this rule, without graduation from that program, may be considered toward qualifying an Applicant for registration to the extent that the course work involves the following classes:

(A) Advanced mathematics, including college algebra, probabilities and statistics, or higher mathematics, all of which must emphasize mathematical concepts and principles rather than computation;

(B) Geology;

(C) Biology;

(D) Ecology;

(E) General or advanced physics;

(F) General or advanced chemistry;

(G) Surveying law;

(H) Basic or route surveying;

(I) Geodesy;

(J) Geographic Information or Global Positioning Systems;

(K) Land development design and planning;

(L) Photogrammetry;

(M) Mapping;

(N) Remote sensing.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Photogrammetrist.

(c) When relying on course work from a qualifying program identified in subsections (1) to (4), (6), (7), or (8) of this rule, without graduation from that program, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's qualifying photogrammetric mapping work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor, or photogrammetrist; or

(B) Active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(10) **Military Experience and Training.**

(a) Military experience and training may be considered as qualifying for the required education and experience under this rule if is evaluated by the Joint Services Transcript (JST) and the Board determines that it is substantially equivalent to the education and experience listed in subsections (1) to (5) of this rule.

(b) Military experience and training that is not determined to be substantially equivalent to the education and experience listed in sections (1) to (5) of this rule may be considered toward qualifying an Applicant for registration to the extent that the experience and training involves the subjects listed in subsection (8)(a) of this rule, or to the extent it qualifies as experience.

(c) The Board will determine the amount of educational credit, if any, the military training and experience will be given towards qualifying the Applicant for registration as a Professional Photogrammetrist.

(d) If applying with military training and experience, whether by qualifying military experience alone, a combination of educational credit and qualifying military experience, or a combination of educational credit, qualifying military experience, and qualifying non-military experience, an Applicant must demonstrate that the Applicant's training and experience is equivalent to a total of 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for military training and experience under this subsection, must demonstrate 10 years of qualifying education, experience, or both outside of the military.

(e) Qualifying experience under this subsection is:

(A) Active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor, or photogrammetrist; or

(B) Active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(11) **Experience Only.**

(a) 12 years of qualifying experience.

(b) Qualifying experience under this subsection is:

(A) Active practice in photogrammetric mapping work as defined in OAR 820-005-0065, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor, or photogrammetrist; or

(B) Active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-4000**
**Qualifications for Registration as a Structural Engineer**

In order to qualify for registration as a Professional Structural Engineer in Oregon, an applicant for registration must provide all of the following:

(1) Evidence satisfactory to the Board of active Oregon registration as a Professional Engineer, in good standing.

(2) Evidence satisfactory to the Board of passing or having passed the NCEES 16-hour Structural Examination.

(3) Evidence satisfactory to the Board of having obtained two years of structural engineering experience, verified by a registered Structural Engineer in a jurisdiction with NCEES membership.

(4) A single application packet, which must include all of the following:

(a) A completed Registration Application form.

(b) The Board will verify that the Applicant holds active registration as an Oregon professional engineer, in good standing.

(c) Official verification of successful passage of the NCEES 16-hour Structural Examination. (Note: The 16-hour Structural examinations are written and scored by the NCEES and administered by NCEES Exam Administration Services. Consult NCEES for examination dates, times, locations, cost, and details).

(d) A completed Experience Details form describing active practice in structural engineering work, as defined in OAR 820-040-0020.

(e) Five references from individuals with knowledge of the Applicant's structural engineering work:

(A) All five references must attest to the Applicant's ability, professional experience, or both. All five references must complete the Reference Details form provided by the Board and submit the completed Reference Details form directly to the Applicant, in a closed and sealed envelope, signed across the sealed flap by the reference. (B) At least three of the five references must hold active Structural Engineer registration in a jurisdiction with NCEES membership.

(C) The Board may, for good cause and upon written application, reduce the number of references required for an Applicant.

(f) For Applicants holding registration in another jurisdiction, in lieu of providing the items listed under (b) to (e) of this subsection, the Applicant may release the Applicant's NCEES Record, if any, to the Board. (Note: See http://ncees.org/records/).

(g) Any and all professional disciplinary records of the Applicant, including but not limited to final orders, letters of reprimand, stipulations, and settlement agreements.

(h) The required application and wall certificate fees.

Stat. Auth.: ORS 670.310, 672.107, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-5000**
**Qualification to Sit for Examination as a Water Right Examiner**

In order to qualify for examination to sit for the Water Right Examiner, an applicant for certification must provide all of the following:

(1) Evidence satisfactory to the Board of active Oregon registration as a Professional Engineer, Professional Land Surveyor, or Geologist, in good standing.

(2) Examinees may request reasonable accommodations to the examination's administration.

(A) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.

(B) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation, by the February 1 deadline.

(3) The required application fee.

(4) **Review of Examinations.** With respect to the certified water right examiner examination, an Applicant may submit a written request to review the Applicant's own examination results. The Board will allow an examination review where the Applicant failed the examination and the applicant achieved a score within five points of the cutoff score. With respect to such reviews.

(a) The Applicant may examine only the question, solution, and answer key for the failed problem.

(b) The Applicant may review the examination on only one occasion. The Board will prescribe a time and place for the review.

(c) All examination reviews will be conducted in the presence of a person designated by the Board.

(d) Except as allowed by the Board for persons requiring disability assistance, no person may accompany the Applicant during the examination review.

(5) **Examination Subversion.**

(a) Any examinee who is under investigation for examination subversion, as defined in OAR 820-005-0040 will not be considered for certification until the investigation and any ensuing disciplinary action are complete.

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of certification. A registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of certification.

Stat. Auth.: ORS 537,797, 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-010-5010**
**Qualification for Certification as a Water Right Examiner**

(1) To qualify for certification as a Water Right Examiner, an Applicant must successfully pass the Certified Water Right Examiner examination offered by the Oregon Water Resources Department and administered by the Board; and

(2) Pay the wall certificate and initial certification fee.

Stat. Auth.: ORS 537.797, 670.310, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-020-0050**
**Address Changes; Service of Notice; and Name Changes**

(1) It is the registrant's responsibility to inform the Board in writing, within 30-days, of any address change, including any change of an e-mail

address. Notice by registered or certified mail to the registrant's last address on file with the Board shall constitute service.

(2) It is the registrant's responsibility to inform the Board in writing, within 30-days, of any name change. Documentation showing current legal name must be submitted.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 372.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-020-0060**
**Civil Penalty Factors**

(1) In establishing the amount of a civil penalty to be assessed pursuant ORS 672.325, the Board may consider the following factors:

(a) The nature, gravity and magnitude of the violation;

(b) Prior violations, including administrative, civil or criminal proceedings in any state;

(c) Whether the violation was repeated or continuous;

(d) Whether the violation was an inadvertent act or an intentional act;

(e) The history of the respondent in taking steps necessary or appropriate to correct any violation;

(f) The opportunity for and the difficulty in correcting the violation at issue.

(2) In considering the factors set forth in section (1) of this rule, the applicable factors may be given varying weight depending upon the circumstances of the violation.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-020-0070**
**Civil Penalties for Violations of ORS 92.040 to 92.080, 209.250, and County Ordinances**

Pursuant to ORS 209.250(11), the Board may impose civil penalties against a registrant for any violation of ORS 92.040 to 92.080, 209.250(1) to (9), or of any county ordinance that establishes standards or plats, in an amount not to exceed $1,000 per offense.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-080-0005**
**Refunds and Charges**

(1) Application fees are non-refundable and will not be applied to future applications.

(2) Rescore fees are non-refundable.

(3) If the Board receives payment of any fees by check and the check is deposited and returned to the Board, the payor of the fees will be assessed a charge of $20 in addition to the required payment of the fees.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-080-0010**
**Fees**

For the purposes of ORS 672.155, the Board shall charge the following fees:

(1) Registration application fee - $360.

(2) Examination application fees:

(a) Oregon-Specific Acoustical examination - $55.

(b) Oregon-Specific Forest examination - $55.

(c) Oregon-Specific Land Surveying examination - $55.

(3) Certified Water Right Examiner examination and certification application fee - $200.

(4) Biennial registration renewal fee:

(a) Professional engineer - $150.

(b) Professional land surveyor - $150.

(c) Professional photogrammetrist - $150.

(d) Certified water right examiner - $40.

(5) Delinquency renewal fee - $80 for any part of each biennial registration renewal period during delinquency.

(6) Issuance of a temporary permit under ORS 672.109 or 672.127 - $100.

(7) Declaration/issuance of an intern enrollment number - $35.

(8) Re-issuance of professional wall certificate - $35.

(9) Re-issuance of pocket card - $10.

(10) Verification of certification(s) and/or registration(s) - $15.

(11) Issuance of certificate of registration under ORS 672.153, without examination based on experience - $250.

(12) Reinstatement for inactive registrant or certificate holder - $225.

(13) Reinstatement for retired registrant or certificate holder - Greater of the $80 delinquency fee for any part of each biennial registration renewal period during delinquency or $225.

(14) Re-score of an Oregon specific examination item - $50.

Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

**820-080-1000**
**Budget**

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

Stat. Auth.: ORS 182.462, 670.310, 672.155 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

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**Rule Caption:** To suspend rules that conflict with new processes as a result of SB 297.
**Adm. Order No.:** BEELS 6-2015(Temp)
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-26-15 thru 2-16-16
**Notice Publication Date:**
**Rules Suspended:** 820-010-0010, 820-010-0200, 820-010-0204, 820-010-0205, 820-010-0206, 820-010-0207, 820-010-0208, 820-010-0209, 820-010-0210, 820-010-0212, 820-010-0213, 820-010-0214, 820-010-0215, 820-010-0225(T), 820-010-0226(T), 820-010-0227(T), 820-010-0228(T), 820-010-0230, 820-010-0231, 820-010-0235, 820-010-0236, 820-010-0255, 820-010-0325(T), 820-010-0400, 820-010-0415, 820-010-0417, 820-010-0420, 820-010-0425, 820-010-0427, 820-010-0430, 820-010-0440, 820-010-0442, 820-010-0443, 820-010-0444, 820-010-0450, 820-010-0455, 820-010-0460, 820-010-0463, 820-010-0465, 820-010-0470, 820-010-0480, 820-010-0600, 820-010-0625, 820-010-0500, 820-010-0300, 820-010-0305, 820-010-0605, 820-010-0617, 820-010-0619
**Subject:** To suspend rules related to processes before the passing of SB 297.
**Rules Coordinator:** Jenn Gilbert—(503) 934-2107

**820-010-0010**
**Definitions**

The following definitions and guides have been adopted by the Board to assist registrants and the general public in their interpretation of specific portions of ORS 672.002 to 672.325.

(1) "Board" means the Oregon State Board of Examiners for Engineering and Land Surveying provided by ORS 672.240.

(2) "Practice of engineering" refers to ORS 672.005 and 672.007.

(3) "Technician work" means the time spent on work where the personal responsibility and technical knowledge required are small; that is, where the individual performance of a task, set and supervised by others, is all that is required. It shall also include all time spent in work before an applicant is 18 years old "Technician work" does not include engineering work as described in section (4), land surveying work as described in section (7) or photogrammetric work as described in section (10). Engineering "technician work" includes, but is not limited to, work as an inspector, a laboratory assistant, a design assistant, a survey technician, or a draftsperson. Land Surveying "technician work" includes, but is not limited to, work as a survey technician, a draftsperson, an instrument plotter, or computation work under close supervision and not requiring the exercise of judgment in survey or map design, or decisions on boundary location. Photogrammetric mapping "technician work" includes but is not limited to, work as a photogrammetric mapping technician to perform technical photogrammetric or remote sensing tasks to extract spatial data from photographic imagery, digital imagery or other remotely-sensed data under close supervision and not requiring the exercise of judgment in project design or decisions related to authoritative photogrammetric measurements.

(4) "Engineering work," is work performed after a person is 18 years old and involves work of a higher grade and responsibility than that defined as "technician work." Credit for engineering work will only be given for time worked such that persons performing work for more than one entity during a given period of time will not receive multiple credit for dates worked. Time spent in engineering teaching subsequent to graduation shall be listed as "engineering work." Work performed in conjunction with a

course of study provided by a community college, college, university, or any other educational program, for which tuition or similar payment is made, credit is earned, or as a requirement of the program, will not be considered "engineering work."

(5) "Responsible charge," as used in ORS 672.002(9), means to have supervision and control over engineering work as defined in 672.005(1), land surveying work, and photogrammetric mapping, as evidenced by performing substantially the following:

(a) Establishing the manner or method by which services are rendered;

(b) Establishing quality controls for the services rendered;

(c) Communicating with clients;

(d) Reviewing designs, calculations, plans, surveys or maps;

(e) Supplying deficiencies found in or correcting errors contained in designs, calculations, plans, surveys or maps;

(f) Making changes to documents, including but not limited to, designs, plans, plats, surveys or maps; and

(g) With respect to land surveying, reviewing field evidence and making final decisions concerning the placement of survey monuments and surveyed lines.

(6) "Supervision and control," as used in ORS 672.002(10), means establishing the nature of, directing and guiding the preparation of, and approving the work product and accepting responsibility for the work product, as evidenced by performing the following:

(a) Spending time directly supervising the work to assure that the person working under the licensee is familiar with the significant details of the work;

(b) Providing oversight, inspection, observation and direction regarding the work being performed;

(c) Providing adequate training for persons rendering services and working on projects under the licensee;

(d) Maintaining readily accessible contact with the person providing services or performing work by direct proximity or by frequent communication about the services provided or the work performed. Communications between the licensee and persons under the licensee's supervision and control include face-to-face communications, electronic mail, and telephone communications and similar, other communications that are immediate and responsive; and

(e) Applying the licensee's seal and signature to a document.

(7) "Practice of land surveying" refers to ORS 672.005(2) and 672.007.

(8) "Land surveying work" is work performed after a person is 18 years old and involves work of a higher grade and responsibility than that defined as "technician work". Engineering work, not related to the practice of land surveying, is not land surveying work. Credit for land surveying work will only be given for time worked such that persons performing work for more than one entity during a given period of time will not receive multiple credit for dates worked. Work performed in conjunction with a course of study provided by a community college, college, university, or any other educational program, for which tuition or similar payment is made, credit is earned, or as a requirement of the program, will not be considered "land surveying work."

(9) "Practice of photogrammetric mapping" or "practice of photogrammetry" refers to ORS 672.002(7).

(10) "Photogrammetric work" is work performed after a person is 18 years old and involves work of a higher grade and responsibility than that defined as "technician work." Credit for photogrammetric work will only be given for time worked such that persons performing work for more than one entity during a given period of time will not receive multiple credit for dates worked. Time spent teaching photogrammetric mapping after graduation is "photogrammetric work." Work performed in conjunction with a course of study provided by a community college, college, university, or any other educational program, for which tuition or similar payment is made, credit is earned, or as a requirement of the program, will not be considered "photogrammetric work."

(11) Professional Development Hour (PDH) — A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(12) Continuing Education Unit (CEU) — Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.

(13) College/Unit Semester/Quarter Hour — Credit for course work in an approved program or other related college course approved in accordance with article (e) of this section.

(14) Course/Activity — Any qualifying course or activity with a clear purpose and objective which will maintain, improve or expand the skills and knowledge relevant to the licensee's field of practice.

(15) Multiple Registrant means a person who is registered as both a land surveyor and an engineer or is registered as an engineer in two or more disciplines.

(16) "Digital signature" means a type of electronic signature, as allowed by the ORS 84.001 to 84.061, 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.

(17) "Certificate Authority" is the trusted third party that issues and manages digital certificates (private and public keys) for digital signatures.

(18) "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.

(19) The words "branch" and "discipline" are synonymous as used in OAR chapter 820 divisions 10 and 40.

(20) Acronyms:

(a) ABET — Accreditation Board for Engineering and Technology, Inc.;

(b) ACCE — American Council for Construction Education;

(c) ASAC — Applied Science Accreditation Commission of ABET;

(d) EAC — Engineering Accreditation Commission of ABET;

(e) EI — Engineering Intern;

(f) FE — Fundamentals of Engineering;

(g) FLS — Fundamentals of Land Surveying;

(h) LSI — Land Surveying Intern;

(i) NCEES — National Council of Examiners for Engineering and Surveying;

(j) TAC — Technology Accreditation Commission of ABET.

(k) PE — Professional Engineer;

(l) PLS — Professional Land Surveyor;

(m) RPP — Registered Professional Photogrammetrist;

(n) CWRE — Certified Water Right Examiner.

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 17, f. 4-22-74, ef. 5-11-74; EE 20, f. & ef. 12-15-77; EE 1-1987, f. & ef. 1-5-87; 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 4-2000, f. & cert. ef. 8-4-00; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 1-2002, f. & cert. ef. 3-13-02; BEELS 1-2004, f. & cert. ef. 1-26-04; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 1-2005, f. & cert. ef. 3-16-05; 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 2-2008, f. & cert. ef. 7-9-08; BEELS 3-2008, f. & cert. ef. 11-14-08; 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0200**

**Application for Registration as Professional Engineers (PE) Based on Licensure by Another Jurisdiction (Comity)**

(1) Professional engineers registered in other jurisdictions may file applications for registration on the basis of comity as provided in ORS 672.148. NCEES records, current within the two years prior to application, may be accepted to document registration.

(2) In lieu of a NCEES record, application will consist of:

(a) Experience Details form including active practice in engineering;

(b) Five references that meet the requirements of OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that verifies the applicant's work meets the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of EI and current registration in another NCEES jurisdiction.

(3) The other jurisdiction that issued the certificate of registration must have had substantially equivalent requirements for registration as Oregon had at the time the other jurisdiction issued the certificate of registration.

(4) The Board may require the applicant to provide documentation of the requirements for registration by such other jurisdiction in effect at the time the applicant obtained a certificate of registration.

(5) Before receiving a certificate of registration to practice professional engineering in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(6) Application must be accompanied by the $360.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 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 1-1992, f. & cert. ef. 2-3-92; EE 1-1993, f. 1-28-93, cert. ef. 2-1-93; 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 3-2001, f. & cert. ef. 11-26-01; BEELS 1-2003, f. & cert. ef. 1-28-03; BEELS 1-2004, f. & cert. ef. 1-26-04; BEELS 1-2005, f. & cert. ef. 3-16-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0204**
**Applications for Registration as Professional Engineers (PE) Based on Examination by Another Jurisdiction or by NCEES (1st Registration)**

(1) Applicants who are not registered in another jurisdiction but who meet all the requirements for registration in Oregon may be considered for registration if the application is submitted within five years following passing the practical examination as a professional engineer in another jurisdiction or by NCEES. This includes, for example, applicants who have passed the FE and PE examinations in another jurisdiction or by NCEES, but who are not registered in a jurisdiction. This rule does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates of registration.

(2) Application must include:

(a) Experience Details form including active practice in engineering;

(b) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of successful completion of the NCEES Fundamentals of Engineering examination and the NCEES Principles and Practice of Engineering examination.

(3) Before receiving a certificate of registration to practice professional engineering in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(4) Application must be accompanied by the $360.00 fee.

Stat. Auth.: ORS 670.310, 672.095, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0205**
**Applications for Registration as Professional Land Surveyors (PLS) Based on Licensure by Another Jurisdiction (Comity)**

(1) Professional land surveyors registered in other jurisdictions may file applications for registration on the basis of comity as provided in ORS 672.148. NCEES records, current within the two years prior to application, may be accepted to document registration.

(2) In lieu of a NCEES record, application will consist of:

(a) Experience Details form including active practice in land surveying;

(b) Five references that meet the requirements of OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that verifies the applicant's work meets the definition of land surveying as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of LSI and current registration in another NCEES jurisdiction.

(3) The other jurisdiction that issued the certificate of registration must have had substantially equivalent requirements for registration as Oregon had at the time the other jurisdiction issued the certificate of registration.

(4) The Board may require the applicant to provide documentation of the requirements for registration by such other jurisdiction in effect at the time the applicant obtained a certificate of registration.

(5) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must successfully pass a state specific examination covering Oregon law relating to land surveying.

(6) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(7) Application must be accompanied by the $360.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 5-2005(Temp), f. & cert. ef. 9-23-05 thru 3-21-06; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0206**
**Applications for Registration as a Professional Land Surveyors (PLS) Based on Examination by Another Jurisdiction or by NCEES (1st Registration)**

(1) Applicants who are not registered in another jurisdiction but who meet all the requirements for registration in Oregon may be considered for registration if the application is submitted within five years following passing the practical examination as a professional land surveyor in another jurisdiction or by NCEES. This includes, for example, applicants who have passed the FLS and PLS examinations in another jurisdiction or by NCEES, but who are not registered in a jurisdiction. This rule does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates of registration.

(2) Application must include:

(a) Experience Details form including active practice in land surveying;

(b) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of land surveying as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of successful completion of the NCEES Fundamentals of Land Surveying examination and the NCEES Principles and Practice of Land Surveying examination.

(3) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must successfully pass a state specific examination covering Oregon law relating to land surveying.

(4) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(5) Application must be accompanied by the $360.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0207**
**Applications for Registration as Professional Photogrammetrists Based on Licensure by Another Jurisdiction (Comity)**

(1) Professional photogrammetrists registered in other jurisdictions may apply for registration on the basis of comity as provided in ORS 672.148. NCEES records, current within the two years prior to application, may be accepted to document registration.

(2) In lieu of a NCEES record, application will consist of:

(a) Experience Details form including active practice in photogrammetric mapping;

(b) Five references that meet the requirements of OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that verifies the applicant's work meets the definition of photogrammetric mapping as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of LSI and current registration in another NCEES jurisdiction.

(3) The other jurisdiction that issued the certificate of registration must have had substantially equivalent requirements for registration as Oregon had at the time the other jurisdiction issued the certificate of registration.

(4) The Board may require the applicant to provide documentation of the requirements for registration by such other jurisdiction in effect at the time the applicant obtained a certificate of registration.

(5) Before receiving a certificate of registration to practice photogrammetric mapping in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(6) Application must be accompanied by the $360.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0208**
**Applications for Registration as a Professional Photogrammetrists Based on Examination by Another Jurisdiction or by NCEES (1st Registration)**

(1) Applicants who are not registered in another jurisdiction but who meet all the requirements for registration in Oregon may be considered for registration if the application is submitted within five years following passing the examination as a photogrammetrist in another jurisdiction or by NCEES. This rule does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates of registration.

(2) Application must include:

(a) Experience Details form including active practice in photogrammetric mapping;

(b) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of photogrammetric mapping as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of successful completion of the NCEES Fundamentals of Land Surveying examination and a professional photogrammetry examination recognized by the Board.

(3) Before receiving a certificate of registration to practice professional photogrammetric mapping in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(4) Application must be accompanied by the $360.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0209**
**Applications for Certification as a Water Right Examiner**

(1) Applicants who hold a current registration as a professional engineer, land surveyor, or registered geologist may be considered for certification as a water right examiner.

(2) Before receiving a certificate as a water right examiner, the applicant must successfully pass a written examination on properly performing surveying, mapping, hydraulic computations, and information gathering duties required by ORS 537.798.

(3) Applications must be submitted by the dates specified in OAR 820-010-0442 to be considered by the Board.

(4) Applications submitted by registered geologists will be accompanied by official documentation verifying current registration with the Oregon State Board of Geologist Examiners (OSBGE).

(5) Requests for special accommodations will be made in accordance with OAR 820-010-0443.

(6) Fee for an initial application for certification as a water right examiner is $105.00.

(7) Fee for an application for readmission to the examination for certification as a water right examiner is $40.00.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0210**
**Application for Enrollment as an Engineering Intern (EI) and Land Surveying Intern (LSI)**

Applicants for enrollment as an EI or LSI must submit documentation, compliant with OAR 820-010-0215.

(1) Applications for admission to examination based on educational qualifications must include:

(a) Application for the Fundamentals of Engineering/Fundamentals of Land Surveying examination.

(b) Official transcripts or evaluation of degree credentials demonstrating completion of a curriculum satisfactory to the Board as defined in OAR 820-010-0225 or 820-010-0226.

(2) Applications for admission to examination based on experience or based on a combination of educational and experience qualifications must include:

(a) Application for the Fundamentals of Engineering/Fundamentals of Land Surveying examination.

(b) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program, if applicable.

(c) Experience Details form.

(d) Three references that meet the requirements of the OAR 820-010-0255;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(3) Application must be accompanied by the $35.00 fee.

(4) Application for readmission must be accompanied by the $25.00 fee.

Stat. Auth.: ORS 670.310, 672.105, 672.118 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 2-1999, f. & cert. ef. 9-15-99; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 5-2013(Temp), f. & cert. ef. 8-13-13 thru 2-7-14; Administrative correction, 2-24-14; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0212**
**Applications for Registration as Professional Engineers (PE) Based on Examination**

(1) Applicants for registration as a professional engineer must submit documentation, compliant with OAR 820-010-0215, to include:

(a) Application for Registration by Examination;

(b) Experience Details form including active practice in engineering;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Engineering examination.

(2) Before receiving a certificate of registration to practice professional engineering in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(3) Application must be accompanied by the $210.00 fee.

(4) Application for readmission must be accompanied by the $90.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0213**
**Applications for Registration as Professional Land Surveyors (PLS) Based on Examination**

(1) Applicants for registration as a professional land surveyor must submit documentation to include:

(a) Application for Registration by Examination;

(b) Experience Details form including active practice in land surveying;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of land surveying as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Land Surveying examination.

(2) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(3) Application must be accompanied by the $250.00 fee.

(4) Applications for readmission:

(a) Applications for readmission for both the National (6-hour) examination and the Oregon Specific (4-hour) examination must be accompanied by the $130.00 fee.

(b) Application for readmission for the National (6-hour) examination must be accompanied by the $75.00 fee.

(c) Application for readmission for the Oregon Specific (4-hour) examination must be accompanied by the $55.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0214**
**Applications for Registration as Professional Photogrammetrists (RPP) Based on Examination**

(1) Applicants for registration as a professional photogrammetrist must submit documentation to include:

(a) Application for Registration by Examination;

(b) Experience Details form including active practice in photogrammetric mapping;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of photogrammetric mapping as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Land Surveying examination.

(2) Before receiving a certificate of registration to practice professional photogrammetric mapping in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

(3) Application must be accompanied by the $230.00 fee.

(4) Application for readmission must be accompanied by the $110.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0215**
**Form of Applications**

(1) Applications for registration as professional engineers, professional land surveyors, professional photogrammetrists and for enrollment as an EI, an LSI, or an application for certification as a water right examiner will be made on printed forms issued by the Board in accordance with Board instructions.

(2) All applications must be accompanied by the appropriate fee.

(3) The following must be submitted to the Board in a single package by the application deadline in OAR 820-010-0442:

(a) Application;

(b) Experience Details form;

(c) Reference Details forms;

(d) Request for Reasonable Accommodations to Oregon Specific Examinations; and

(e) Explanation of any work performed in conjunction with any educational program as defined in OAR 820-010-0010.

(f) If applicable, any evidence of further preparation for readmission to a subsequent examination as required by OAR 820-010-0465.

(4) Applications for registration as professional engineers, professional land surveyors, or professional photogrammetrists must be accompanied by a completed take at home examination on the laws and rules in Oregon.

(5) The following documents may be submitted by the issuer to the Board office and received no later than December 15 for the Spring examination administration or no later than June 15 for the Fall examination administration:

(a) Official verification of examinations and/or substantially equivalent examinations successfully passed;

(b) Official verification of current registration by another jurisdiction;

(c) Official transcripts or course-by-course evaluations; or

(d) NCEES Records.

(6) Applicants who do not comply with this rule will be considered failing to complete the application process, subject to OAR 820-010-0300, and not eligible to forward fees.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1983, f. 2-28-83, ef. 3-1-83; 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; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; Renumbered from 820-010-0220; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 4-2008, f. & cert. ef. 12-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 2-2010(Temp), f. & cert. ef. 12-28-10 thru 6-26-11; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0225**
**Educational Qualifications to Take the Fundamentals of Engineering (FE) Examination for Enrollment as an Engineering Intern (EI)**

Applicants for admission to examination for enrollment as an EI will be required to submit the following evidence to show eligibility to take the FE examination:

(1) Official transcripts that document the degree and date awarded, demonstrating completion of an engineering curriculum satisfactory to the Board, as described in subsection (2) below.

(2) For entrance to the FE examination, a curriculum satisfactory to the Board shall include:

(a) Graduation from an EAC of ABET accredited engineering program;

(b) Graduation from a TAC of ABET baccalaureate engineering program;

(c) Graduation from an ACCE accredited four-year baccalaureate construction engineering management program;

(d) Graduation from a graduate degree program in engineering at a college or university that has an EAC of ABET accredited undergraduate degree program in the same field as the graduate degree program, combined with completion of 21 semester/32 quarter hours of engineering related technical course work. The courses shall include at least six of the following nine subjects: Differential Equations, Physics, Statistics, Statics,

Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals and Strength of Materials.

(e) Graduation from TAC of ABET accredited two-year Engineering Technology program or graduation from a two-year Associate of Applied Science program in Engineering Technology that includes the following:

(A) A total of at least 64 semester/96 quarter hours;

(B) At least 32 semester/48 quarter hours in technical courses. (Skills and knowledge of appropriate methods, procedures and techniques; experience in carrying out established engineering procedures);

(C) At least 16 semester/24 quarter hours in math and science, including:

(i) 4 semester/6 quarter hours in basic science (physics, chemistry, earth and life sciences);

(ii) 8 semester/12 quarter hours in mathematics (not including courses below the level of college algebra or courses in computer programming);

(D) At least 9 semester/13 quarter hours in social science, humanities and communications; and

(E) In addition to the educational requirements set forth in paragraph (e) of subsection (2), graduates from two-year programs shall complete two or more years of engineering work before qualifying to take the FE examination for enrollment as an EI. In the alternative, graduates from two-year programs may complete additional course work consisting of 21 semester/32 quarter hours in Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals and Strength of Materials.

(f) Completion of a curriculum that the Board finds has adequately prepared the applicant for enrollment as an EI.

(3) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering program described in subsections (2)(a), (b) or (c) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a qualifying baccalaureate program, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(4) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering program that is not accredited as described in subsections (2)(a), (b) or (c) of this rule:

(a) A verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a baccalaureate engineering program that includes 21 semester/32 quarter hours in at least six of the following nine courses: differential equations; Physics; Statistics; Statics; Dynamics; Thermodynamics; Fluid Mechanics; Electrical Fundamentals; Strength of Materials, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant; and,

(b) For a curriculum from a degree under this subsection to be considered board-approved, the degree must be evaluated by NCEES Credentials Evaluations and determined by the Board to be substantially equivalent to the degree or course work required for degrees for the programs listed in OAR 820-010-0225(2)(a), (b), or (c). The cost of such evaluation shall be borne by the applicant.

(5) The verification statement required under subsections (3) and (4) of this rule must be submitted in the same packet as the completed application to be considered.

(6) NCEES will be notified of approved applications. The applicant may not schedule with NCEES to sit for the examination unless and until NCEES has been notified of the Board's approval of the application.

(7) An applicant who is admitted to the examination under subsections (3) of this rule shall, within 10 months of sitting for the exam, provide the Board with an official transcript showing that the degree for which the applicant was approved to sit for the examination has been conferred on the applicant. Failure of the applicant to timely provide the board with an official transcript showing that the degree has been conferred on the applicant vacates any passing score that the applicant achieved on the examination.

(8) An applicant who is admitted to the examination under subsection (4) of this rule shall, within 10 months of sitting for the exam, provide the board with the NCEES Credentials Evaluations in order for the board to determine if the degree or course work is substantially equivalent to the degree or course work required for degrees for the programs listed in OAR 820-010-0225(2)(a), (b), or (c). Failure of the applicant to timely provide the board with the NCEES Credentials Evaluations or if the Board determines that the degree or course work is not substantially equivalent to the degree or course work required for degrees for the programs listed in OAR 820-010-0225(2)(a), (b), or (c), vacates any passing score that the applicant achieved on the examination. This subsection applies to applications received since January 1, 2014.

Stat. Auth.: ORS 670.310, 672.105, 672.121, & 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 1-1986, f. 2-4-86, ef. 2-15-86; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 2-1996, f. & cert. ef. 10-3-96; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 1-2004, f. & cert. ef. 1-26-04; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 4-2013(Temp), f. & cert. ef. 7-10-13 thru 1-6-14; BEELS 8-2013(Temp) f. & cert. ef. 11-14-13 thru 1-6-14; Administrative correction, 2-5-14; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14; BEELS 3-2014, f. & cert. ef. 7-16-14; BEELS 3-2015(Temp), f. 5-26-15, cert. ef. 5-27-15 thru 11-17-15; Temporary suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0226**

**Educational Qualifications to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveying Intern (LSI)**

Applicants for admission to examination for enrollment as an LSI will be required to submit the following evidence to show eligibility to take the FLS examination:

(1) Official transcripts that document the degree and date awarded, demonstrating completion of a land surveying curriculum satisfactory to the Board, as described in subsection (2) below.

(2) For entrance to the FLS Examination, a curriculum satisfactory to the Board shall include:

(a) Graduation from an EAC of ABET accredited four-year baccalaureate land surveying program;

(b) Graduation from an ASAC of ABET accredited four-year baccalaureate land surveying program;

(c) Graduation from a TAC of ABET accredited four-your baccalaureate land surveying program;

(d) Graduation from an EAC of ABET accredited four-year baccalaureate engineering program with 11 semester/16 quarter hours of surveying instruction and surveying law.

(e) Graduation from a TAC of ABET accredited four-year baccalaureate engineering program with 11 semester/16 quarter hours of surveying instruction and surveying law.

(f) Graduation from an ACCE accredited four-year baccalaureate engineering program with 11 semester/16 quarter hours of surveying instruction and surveying law.

(g) Graduation from a graduate degree program in land surveying at a college or university that has an ABET accredited undergraduate degree program in the same field, combined with completion of 11 semester/16 quarter hours of surveying instruction.

(h) Graduation from an ASAC of ABET accredited two-year Surveying Technology program, a TAC of ABET accredited two-year Surveying Technology program, or a two-year Associate of Applied Science program in Surveying Technology or Engineering Technology that includes the following:

(A) A total of at least 64 semester/96 quarter hours;

(B) At least 32 semester/48 quarter hours in technical courses, of which a minimum of 11 semester/16 quarter hours shall be in surveying instruction;

(C) At least 16 semester/24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating engineering economics with college level algebra, trigonometry and statistics;

(D) At least 9 semester/13 quarter hours in social science, humanities and communications; and

(E) In addition to the educational requirements set forth in paragraph (h) of subsection (2) above, graduates from two-year education programs shall complete two or more years of active practice in land surveying work before qualifying to take the FLS examination for enrollment as an LSI.

(i) Graduation from a baccalaureate degree program related to engineering or land surveying that includes the following:

(A) 21 semester/32 quarter hours of coursework with a direct geomatics focus that requires the application of geomatics knowledge and skills. One of these courses must be surveying law related;

(B) 27 semester/40 quarter hours that requires the application of mathematics for problem solving. At least one of these courses must focus on the application of differential and integral calculus;

(C) 24 semester/35 quarter hours related to physical and natural science with laboratory applications; and

(D) 4 semester/6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in solving problems.

(j) Completion of a curriculum that the Board finds adequately prepared the applicant for enrollment as an LSI.

(3) To be eligible to sit for the examination prior to graduation from a baccalaureate land surveying or engineering program described in subsections (2)(a) through (c) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a qualifying baccalaureate program, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(4) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering program described in subsections (2)(d) through (f) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a qualifying baccalaureate engineering program that includes: 11 semester/16 quarter hours of surveying instruction and surveying law, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(5) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering or land surveying program that is not accredited as described in subsections (2)(a) through (f) of this rule:

(a) A verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a baccalaureate engineering or land surveying program that includes: 21 semester/32 quarter hours of coursework with a direct geomatics focus that requires the application of geomatics knowledge and skills. One of these courses must be surveying law related; 27 semester/40 quarter hours that requires the application of mathematics for problem solving. At least one of these courses must focus on the application of differential and integral calculus; 24 semester/35 quarter hours related to physical and natural science with laboratory applications; and 4 semester/6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in solving problems, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant; and,

(b) For a curriculum from a degree under this subsection to be considered board-approved, the degree must be evaluated by NCEES Credentials Evaluations and determined by the Board to be substantially equivalent to the degree or course work required for degrees for the programs listed in OAR 820-010-0226(2)(a) through (f). The cost of such evaluation shall be borne by the applicant.

(6) The verification statement required under this subsections (3), (4), and (5) of this rule must be submitted in the same packet as the completed application to be considered.

(7) NCEES will be notified of approved applications. The applicant may not schedule with NCEES to sit for the examination unless and until NCEES has been notified of the Board's approval of the application.

(8) An applicant who is admitted to the examination under subsections (3) or (4) of this rule shall, within 10 months of sitting for the exam, provide the Board with an official transcript showing that the degree for which the applicant was approved to sit for the examination has been conferred on the applicant. Failure of the applicant to timely provide the Board with an official transcript showing that the degree has been conferred on the applicant vacates any passing score that the applicant achieved on the examination.

(9) An applicant who is admitted to the examination under subsection (5) of this rule shall, within 10 months of sitting for the exam, provide the board with the NCEES Credentials Evaluations in order for the board to determine if the degree or course work is substantially equivalent to the degree or course work required for degrees for the programs listed in OAR 820-010-0226(2)(a) through (f). Failure of the applicant to timely provide the board with the NCEES Credentials Evaluations or if the Board determines that the degree or course work is not substantially equivalent to the degree or course work required for degrees for the programs listed in 820-010-0226(2)(a) through (f), vacates any passing score that the applicant achieved on the examination. This subsection applies to applications received since January 1, 2014.

Stat. Auth.: ORS 670.310, 672.118, 672.121, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 4-2013(Temp), f. & cert. ef. 7-10-13 thru 1-6-14; BEELS 8-2013(Temp) f. & cert. ef. 11-14-13 thru 1-6-14; Administrative correction, 2-5-14; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14; BEELS 3-2014, f. & cert. ef. 7-16-14; BEELS 3-2015(Temp), f. 5-26-15, cert. ef. 5-27-15 thru 11-17-15; Temporary suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0227**
**Educational and Experience Qualifications to Take the Fundamentals of Engineering (FE) Examination for Enrollment as an Engineering Intern (EI) and Applications Based on Non-Accredited Degrees**

(1) An applicant that does not qualify pursuant to OAR 820-010-0225 may apply for admission to the FE examination based on a combination of education and experience in the practice of engineering. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the FE examination.

(2) Degrees from educational programs not identified in OAR 820-010-0225(2)(a), (b), or (c), may be considered as qualifying if they are evaluated by NCEES Credentials Evaluations, and the Board determines that the degree or course work is substantially equivalent to the educational degrees or courses required for degrees for those programs listed in 820-010-0225(2)(a), (b), or (c), or equivalent to the educational degree plus experience listed in 820-010-0225(2)(e). The cost for such evaluation will be borne by the applicant.

(3) Military training or experience may be considered as qualifying if it is evaluated by the Joint Services Transcript (JST), and the Board determines that the military training or experience is considered substantially equivalent to the educational degrees or courses listed in OAR 820-010-0225(2)(a), (b), or (c), or equivalent to the educational degree plus experience listed in 820-010-0225(2)(e).

(4) Course work from programs that are identified in OAR 820-010-0225(2)(a), (b), or (c), may be considered as qualifying if the coursework involves engineering principles or was obtained by the applicant while enrolled in an engineering program.

(5) Where an applicant applies for admission to the FE examination on the basis of sections (1) through (3) of this rule, the applicant must also demonstrate that the applicant's years of education when combined with the applicant's years of engineering work total at least 8 years. Work experience in excess of that needed to satisfy this requirement may be included by applicant in a subsequent application to apply for admission to the PE examination.

(6) The Board may give credit for qualifying course work in proportion to the amount of course work completed relative to the degree towards which the course work would apply. For example, completion of one year of a two-year Engineering Technology program may be considered equivalent to one year of education, requiring 7 years of engineering work experience, in accordance with section (5). Qualifying course work includes classes in engineering ethics, fundamentals and design.

(7) An applicant may qualify for admission to the FE examination on the basis of 8 years of engineering work without any qualifying degree or course work.

(8) Applicants for admission to the fundamentals of engineering examination on the basis of experience or combined education and experience will be required to provide a minimum of three references with knowledge of engineering technician work gained as defined in the OAR 820-010-0010.

(a) At least one of the three references must be registered in a NCEES jurisdiction.

(b) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering technician work as defined in the OAR 820-010-0010.

(c) References must be submitted on the Board approved Reference Details form. The Reference Details form must be received by the Board office in a sealed envelope.

(d) The Board may, for good cause upon written application, reduce the number of references required.

(9) FE examination application fee is $0.00.

Stat. Auth.: ORS 670.310, 672.095, 672.105, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; 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 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14; BEELS 3-2014, f. & cert. ef. 7-16-14; BEELS 3-2015(Temp), f. 5-26-15, cert. ef. 5-27-15 thru 11-17-15; Temporary suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0228**
**Combined Educational and Experience Qualifications to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveying Intern (LSI) and Applications Based on Non-accredited Degrees**

(1) An applicant that does not qualify pursuant to OAR 820-010-0226 may apply for admission to the FLS examination based on a combination of education and experience in the practice of land surveying. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the FLS examination.

(2) Degrees from educational programs not identified in OAR 820-010-0226(2)(a) through (f) or (i), may be considered as qualifying if they are evaluated by NCEES Credentials Evaluations, and the Board determines that the degree or course work is substantially equivalent to the educational degrees or courses required for degrees for those institutions listed in 820-010-0226(2)(a) through (f) or (i). The cost for such evaluation will be borne by the applicant.

(3) Military training or experience may be considered as qualifying if it is evaluated by the Joint Services Transcript (JST), and the Board determines that the military training or experience is considered substantially equivalent to the educational degrees or courses listed in OAR 820-010-0226(2)(a) through (f) or (i), or equivalent to the educational degree plus experience listed in 820-010-0226(2)(h).

(4) Course work from programs that are identified in OAR 820-010-0226(2)(a) through (f), may be considered as qualifying if the coursework involves land surveying principles or was obtained by the applicant while enrolled in a land surveying program.

(5) Where an applicant applies for admission to the FLS examination on the basis of sections (1) through (3) of this rule, the applicant must also demonstrate that the applicant's years of education when combined with the applicant's years of land surveying work total at least 8 years. Work experience in excess of that needed to satisfy this requirement may be included by applicant in a subsequent application to apply for admission to the PLS examination.

(6) The Board may give credit for qualifying course work in proportion to the amount of course work completed relative to the degree towards which the course work would apply. For example, completion of one year of a two-year Surveying Technology program may be considered equivalent to one year of education, requiring 7 years of surveying work experience, in accordance with section (5). Qualifying course work includes classes in land surveying ethics, fundamentals and application.

(7) An applicant may qualify for admission to the FLS examination on the basis of 8 years of land surveying work without any qualifying degree or course work.

(8) Applicants for admission to the fundamentals of land surveying examination on the basis of experience or combined education and experience will be required to provide a minimum of three references with knowledge of land surveying technician or photogrammetric mapping technician work gained as defined in the OAR 820-010-0010.

(a) At least one of the three references must be registered in a NCEES jurisdiction.

(b) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work as meeting the definition of land surveying technician or photogrammetric mapping technician work as defined in the OAR 820-010-0010.

(c) References must be submitted on the Board approved Reference Details form. The Reference Details form must be received by the Board office in a sealed envelope.

(d) The Board may, for good cause upon written application, reduce the number of references required.

(9) FLS examination application fee is $0.00.

Stat. Auth.: ORS 670.310, 672.095, 672.118, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; 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 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14; BEELS 3-2014, f. & cert. ef. 7-16-14; BEELS 3-2015(Temp), f. 5-26-15, cert. ef. 5-27-15 thru 11-17-15; ; Temporary suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0230**
**Information to be Furnished by Professional Engineer Applicants**

(1) Applicants for admission to examination for registration as professional engineers will be required to submit evidence to show qualification of eligibility consisting of current enrollment as an EI meeting the requirements of the State of Oregon at the time of enrollment and the following practice experience:

(a) Applicants qualified under OAR 820-010-0225(3)(a), (3)(d), (3)(f), or 820-010-0227 shall complete four or more years of active practice in engineering work in addition to the requirements for admission to examination for enrollment as an EI. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the PE examination.

(b) Applicants qualified under OAR 820-010-0225(3)(b), (3)(c) or (3)(e) shall complete six or more years of active practice in engineering work in addition to the requirements for admission to examination for enrollment as an EI. The six years of active practice year requirement may be reduced to four years provided that the applicant completes at least 21 semester/32 quarter hours in a curriculum including: Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals and Strength of Materials.

(2) Active practice in engineering work shall be practice in the applicant's area of competence, in responsible charge performed under the direction and supervision of a licensed engineer.

(3) Graduation from a post-baccalaureate degree program in engineering at a college or university that has an EAC of ABET accredited undergraduate degree program in a similar discipline as the post-baccalaureate degree program may be substituted for one year of the four years of active practice required by this rule so long as the degree was not the basis for admission to the fundamental examination under OAR 820-010-0225(3)(d).

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 20, f. & ef. 12-15-77; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 1-2002, f. & cert. ef. 3-13-02; 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 2-2009, f. & cert. ef. 11-13-09; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0231**
**Information to be Furnished by Professional Land Surveyor Applicants**

(1) Applicants for admission to examination for registration as professional land surveyors will be required to submit evidence to show qualification of eligibility consisting of current enrollment as an LSI, meeting the requirements of the State of Oregon at the time of enrollment and the following practice experience:

(a) Applicants qualified under OAR 820-010-0226(3)(a), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(g), (3)(i), or 820-010-0228 shall complete four or more years of active practice in land surveying work in addition to the requirements for admission to examination for enrollment as an LSI. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the PLS examination.

(b) Applicants qualified under OAR 820-010-0226(3)(h) shall complete six or more years of active practice in land surveying work in addition to the requirements for admission to examination for enrollment as an LSI.

(2) Active practice in land surveying work shall be under the responsible charge performed under the direction and supervision of a licensed land surveyor.

(3) Graduation from a post-baccalaureate degree program in engineering or surveying at a college or university which has an ABET accredited undergraduate degree program in the same field as the post-baccalaureate degree program may be substituted for one year of the four years of active practice required by this rule so long as the degree was not the basis for admission to the fundamental examination under OAR 820-010-0226(3)(g).

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0235**
**Information to Be Furnished by Water Right Examiner Applicants**

Applicants for admission to the examination for certification as a water right examiner must be currently registered as a professional engineer or land surveyor by the Board or as a registered geologist by the Oregon State Board of Geologist Examiners. Once certified, the water right examiner certificate will remain valid and renewable as long as the individual's registration as a professional engineer, land surveyor, or registered geologist remains valid.

Stat. Auth.: ORS 672
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 4-1987, f. & ef. 12-1-87; BEELS 3-2008, f. & cert. ef. 11-14-08; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0236**
**Information to be Furnished by Registered Professional Photogrammetrist Applicants**

(1) Applicants for admission to examination for registration as registered professional photogrammetrists will be required to submit evidence to show qualification of eligibility consisting of current enrollment as an LSI, meeting the requirements of the State of Oregon at the time of enrollment and the following practice experience: Applicants qualified under OAR 820-010-0226(3) shall complete four or more years of active practice in photogrammetric work in addition to the requirements for admission to examination for enrollment as an LSI. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the professional photogrammetry examination;

(2) Active practice in photogrammetric work shall be under the supervision and control of a licensed photogrammetrist or licensed land surveyor or be active practice in photogrammetric work satisfactory to the Board.

(3) Graduation from a post-baccalaureate degree program in engineering or surveying at a college or university which has an ABET accredited undergraduate degree program in the same field as the post-baccalaureate degree program may be substituted for one year of the four years of active practice required by this rule so long as the degree was not the basis for admission to the fundamental examination under OAR 820-010-0226(3)(g).

(4) Experience as a full-time assistant professor, or above, in a Board approved photogrammetric curriculum, may be considered at the discretion of the Board as qualifying experience.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 1-2008, f. & cert. ef. 3-12-08; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0255**
**Reference Qualifications**

A reference is qualified if they have knowledge of the applicant's technician work or professional work.

(1) References are attesting to the applicant's ability and/or professional experience.

(2) Professional references must be registrants in a NCEES jurisdiction.

(3) References will complete the reference form provided by the Board and place in a sealed envelope.

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 20, f. & ef. 12-15-77; 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 1-2001, f. & cert. ef. 5-22-01; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0300**
**Refunds and Charges**

(1) Application fees are non-refundable.

(2) Refunds of application fees will not be made to individuals who fail to complete the application process, to qualify for, withdraw from, or do not appear for, the examination.

(3) Comity application fees will not be refunded, but may be applied toward examination fee if requested by the applicant and the application has not been denied.

(4) Rescore fees are non-refundable.

(5) If the Board receives payment of any fees by check and the check is deposited and returned to the Board, the payor of the fees will be assessed a charge of $20 in addition to the required payment of the fees.

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 20, f. & ef. 12-15-77; EE 2-1985, f. 12-4-85, ef. 12-16-85; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0305**
**Fees**

(1) The Board has determined an outside testing provider will administer examinations on behalf of the Board. In addition to state fees, all approved applicants are charged for the test administration fee in addition to any book or scoring fees or any other examination-related fees. The applicant must pay all these costs in advance to the Board and the outside testing provider. The amount for each specific application is compiled in section (2) of this rule. Where applicable, the initial activation and certificate fee must be included. The total amount for each specific application is compiled in a fee schedule published separately. The amount to be submitted will be equal to a total of items (a) through (c) in this section. Actual dollar amounts for application, initial activation, renewal and certificate are listed in sections (2) and (3) of these rules:

(a) Fee for application.

(b) Fee for initial activation equal to one year renewal (one time fee applies to PE, PLS, RPP, and CWRE only; not applicable to reexamination).

(c) Fee for issuance of first certificate (one time fee applies to PE, PLS, RPP, and CWRE only).

(2) Fees for examination application:

(a) Initial fundamentals of engineering examination application — $0.00.

(b) Initial fundamentals of land surveying examination application — $0.00.

(c) Initial professional engineering (PE) examination application — $100.

(d) Initial professional geotechnical examination application — $375.

(e) Initial professional land surveying examination application — $140.

(f) Initial professional photogrammetric mapping examination application — $120.

(g) Certified Water Right Examiner test application — $50.

(h) Application for readmission to the Fundamentals of engineering examination — $0.00.

(i) Application for readmission to the Fundamentals of land surveying examination — $0.00.

(j) Application for readmission to the Professional engineering (PE) examination — $90.

(k) Application for readmission to the Professional geotechnical examination — $365.

(l) Application for readmission to the Professional land surveying (PLS) examination — $130.

(m) Application for readmission to the Oregon law portion of PLS examination — $55.

(n) Application for readmission to the National portion of PLS examination — $75.

(o) Application for readmission to the Professional photogrammetric mapping examination — $110.

(p) Application for readmission to the Certified Water Rights Examiner test— $40.

(q) Proctor Request — $100.

(3) Fees for certification, registration, and renewal:

(a) Professional wall certificate — $35.

(b) Application for registration as a professional engineer — $250.

(c) Application for registration as a professional land surveyor — $250.

(d) Application for registration as a registered professional photogrammetrist — $250.

(e) Temporary permit issued under ORS 672.109 and 672.127 — $100.

(f) Re-issuance of lost or mutilated pocket card — $10.

(g) Issuance of certificate without examination based on experience as provided under ORS 672.255 — $250.

(h) Re-score of an Oregon specific examination item — $50.

(i) Annual renewal of a professional engineering certificate — $75.

(j) Annual renewal of a professional land surveyor certificate — $75.

(k) Annual renewal of a registered professional photogrammetrist certificate — $75.

(l) Delinquency renewal fee — $80 for any part of each two-year renewal period during delinquency.

(m) Fee for reinstatement for inactive or retired registrant or certificate holder — $225.

(n) Annual renewal of water right examiner certificate — $20.

(o) Verification of certification(s) and/or registration(s) — $15.

Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 2-1980, f. & ef. 5-14-80; EE 4-1981, f. & ef. 12-14-81; EE 2-1984(Temp), f. & ef. 5-7-84; EE 2-1984(Temp), f. & ef. 5-7-84; EE 4-1984, f. & ef. 12-11-84; EE 2-1987, f. & ef. 7-2-87; EE 3-1987, f. & ef. 8-25-87; EE 2-1989, f. 1-3-89, cert. ef. 1-15-89; EE 1-1990(Temp), f. & cert. ef. 5-21-90; EE 1-1991(Temp), f. 8-14-91, cert. ef. 9-1-91; EE 2-1991, f. & cert. ef. 9-23-91; EE 1-1992, f. & cert. ef. 2-3-92; EE 2-1992, f. & cert. ef. 2-4-92; EE 4-1992, f. & cert. ef. 7-22-92; EE 2-1993(Temp), f. & cert. ef. 2-22-93; EE 3-1993, f. & cert. ef. 6-3-93; EE 2-1994, f. & cert. ef. 7-22-94; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 2-1997, f. & cert. ef. 8-6-97; BEELS 3-1998, f. & cert. ef. 5-11-98; BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2000, f. 3-17-00, cert. ef. 3-20-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 3-2002, f. & cert. ef. 11-13-02;

BEELS 4-2002. f. & cert. ef. 12-3-02; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10; 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 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

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

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

Stat. Auth.: ORS 182.462, 670.310, 672.155 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 2-2002, f. & cert. ef. 5-15-02; BEELS 4-2003, f. 5-14-03, cert. ef. 7-1-03; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2005(Temp), f. & cert. ef. 6-9-05 thru 12-5-05; BEELS 4-2005, f. & cert. ef. 9-23-05; BEELS 1-2007(Temp), f. & cert. ef. 3-23-07 thru 6-30-07; Administrative correction, 7-15-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 1-2009, f. & cert. ef. 5-15-09; BEELS 2-2011, f. & cert. ef. 5-12-11; BEELS 3-2013, f. & cert. ef. 6-17-13; BEELS 9-2013(Temp), f. & cert. ef. 11-14-13 thru 5-9-14; Administrative correction, 5-21-14; BEELS 4-2015(Temp), f. & cert. ef. 7-1-15 thru 12-18-15; Temporary suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0400**
**Application for Registration as a Geotechnical Engineer**

(1) The Board shall grant registration as a geotechnical engineer, as defined in OAR 820-040-0040(2), if an applicant:

(a) Holds an unexpired, valid Oregon certificate of registration as a professional engineer;

(b) Passes the geotechnical engineering examination offered by the Board; and

(c) Submits evidence satisfactory to the Board demonstrating at least four years of qualifying experience in geotechnical engineering, as that term is defined in OAR 820-040-0040(1).

(d) Up to one year of credit may be given in lieu of experience for possession of a post-graduate degree from a Board approved engineering program with major studies in soil engineering. Credit will not be given for possession of a post-graduate degree if that degree was the basis for experience used by the applicant to obtain a certificate of registration as a professional engineer.

(2) "Qualifying experience," as used in subsections (1)(c) of this rule, means having responsible charge of soil engineering projects while registered as a professional engineer and engaged in the practice of geotechnical engineering, as that term is defined in OAR 820-040-0040(1).

(a) The application for registration as a geotechnical engineer must contain a description of the pertinent geotechnical aspects of each project claimed as part of the qualifying experience.

(b) Teaching soil engineering and related courses at a Board approved school of engineering will be considered qualifying experience.

(4) Unless waived by the Board, an applicant for registration as a geotechnical engineer must provide at least three references acceptable to the Board from professional engineers substantiating the applicant's experience in geotechnical engineering.

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 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 1-2011, f. & cert. ef. 1-14-11; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0415**
**Nature of the Examination for Professional Engineer (PE)**

(1) An applicant to qualify for registration must obtain a passing grade for:

(a) A written examination in engineering fundamentals for qualification as an EI as covered in OAR 820-010-0420, unless exempted from this examination under 820-010-0455. Such examination may be taken at any scheduled examination period but must be passed in order to be admitted to the branch examination as covered in subsection (1)(b) of this rule; and

(b) A written examination in a professional branch of engineering, other than structural engineering, covering practical engineering problems in branches listed in OAR 820-010-0450.

(2) The uniform, national examinations are written and scored by the NCEES and administered by NCEES Exam Administration Services. Acoustical and Forest examinations are written, scored and administered by the Board.

(3) Before receiving a certificate of registration to practice professional engineering in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

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, f. 12-4-85, ef. 12-16-85; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0417**
**Nature of Examination for Structural Engineer**

An applicant to qualify for registration must:

(1) Obtain a passing grade for a written examination in engineering fundamentals for qualification as an EI as covered in OAR 820-010-0420, unless exempted from this examination under 820-010-0455. Such examination may be taken at any scheduled examination period but must be passed in order to be admitted to the branch examination as covered in (2) of this rule.

(2) Obtain a passing grade for a written examination in a professional branch of engineering covering practical engineering problems in branches listed in OAR 820-010-0450(1)(a) through (o).

(3) Obtain at least two years of progressive responsibility in structural engineering experience. These two years of structural experience are in addition to the required years of engineering experience required to be registered as a professional engineer. The structural engineering experience must be supervised by a registered professional engineer in the branch of structural engineering or a registered professional engineer with substantial structural engineering work experience.

(4) After receiving a license as an Oregon registered professional engineer, obtain a passing grade for the 16-hour Structural Examination, administered by NCEES.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2015, f. & cert. ef. 2-3-15; BEELS 2-2015, f. & cert. ef. 5-21-15; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0420**
**Nature of Examination for Engineering Intern (EI)**

The examination to qualify for enrollment as an EI will be an examination devoted to basic engineering subjects on the fundamentals of engineering. The examination may cover such subjects as chemistry, dynamics, engineering economics, engineering mechanics, electrical circuits, electronics and electrical machinery, fluid mechanics, materials science, mathematics, mechanics of materials, statistics, structure of matter and thermodynamics, and discipline specific questions in the chosen discipline.

Stat. Auth.: ORS 670.310, 672.095, & 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 1-1983, f. 2-28-83, ef. 3-1-83; 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 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14; BEELS 3-2014, f. & cert. ef. 7-16-14; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0425**
**Nature of Examination for Professional Land Surveyor (PLS)**

(1) An applicant to qualify for registration must obtain a passing grade for:

(a) A written examination in land surveying fundamentals as covered in OAR 820-010-0430 unless exempted for this examination under 820-010-0455. Such examination may be taken at any scheduled period but must be passed in order to be admitted to the examination in subsection (1)(b) of this rule;

(b) A written examination in practical land surveying problems; and

(c) A four-hour Oregon specific examination covering the U. S. Public Land Survey system, Oregon laws relating to land surveying, and other matters.

(2) The uniform, national examinations referenced in sections (1)(a) and (1)(b) are written and scored by the NCEES and administered by NCEES Exam Administration Services. The four-hour Oregon specific examination is written, scored and administered by the Board.

(3) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

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, f. 12-4-85, ef. 12-16-85; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert.

ef. 9-1-95; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0427**
**Nature of Examination for Registered Professional Photogrammetrist (RPP)**

(1) An applicant to qualify for registration must obtain a passing grade for:

(a) A written examination in land surveying fundamentals as covered in OAR 820-010-0430. Such examination may be taken at any scheduled period but must be passed in order to be admitted to the examination as covered in subsection (1)(b) of this rule;

(b) A written examination in practical photogrammetric mapping problems.

(2) The fundamentals of land surveying examination is written and scored by NCEES and administered by NCEES Exam Administration Services.

(3) The practical photogrammetric mapping examination is written and scored by the Colonial States Boards of Surveyor Registration (CSBSR) pursuant to a contract entered into between the Oregon Board and the CSBSR. The Oregon Board administers the examination in Oregon.

(4) Before receiving a certificate of registration to practice professional photogrammetric mapping in Oregon, each applicant must pass a take at home examination on the laws and rules in Oregon.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0430**
**Nature of Examination for Land Surveyor Intern (LSI)**

The examination to qualify for enrollment as a land surveyor intern (LSI) will be a written examination on the fundamentals of land surveying. The examination may cover such subjects as science fundamentals, mathematics, surveying fundamentals, measurements, computations, applications and legal principles.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented:
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 1-1983, f. 2-28-83, ef. 3-1-83; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0440**
**Schedule of Examinations**

Examinations will be held at times and locations determined by the Board or the outside testing provider. A Spring examination is usually scheduled in April and a Fall examination is usually scheduled in October. Each applicant accepted for examination will be notified of the time and location of the scheduled test. Examinations are offered based upon the following schedule:

(1) Spring examinations held in April are:

(a) NCEES Principles and Practice Examinations in the following branches:

(A) Chemical.
(B) Civil.
(C) Electrical and Computer.
(D) Environmental.
(E) Industrial.
(F) Land Surveying.
(G) Mechanical.
(H) Naval Architecture/Marine.
(I) Structural 16-hour.

(b) Certified Water Right Examiner.
(c) Oregon Specific Acoustical.
(d) Oregon Specific Forest.
(e) Oregon Specific Land Surveying.
(f) Photogrammetry.

(2) Fall examinations held in October are:

(a) NCEES Principles and Practice Examinations in the following branches:

(A) Agricultural and Biological.
(B) Chemical.
(C) Civil.
(D) Control Systems.
(E) Electrical and Computer.
(F) Environmental.
(G) Fire Protection.
(H) Land Surveying.
(I) Mechanical.
(J) Metallurgical.
(K) Nuclear.
(L) Structural 16-hour.

(b) Oregon Specific Land Surveying.

(3) The Fundamentals of Engineering examination is computer-based and is administered year-round in testing windows at NCEES approved test centers.

(4) The Fundamentals of Land Surveying examination is computer-based and is administered year-round in testing windows at NCEES approved test centers.

(5) The California Geotechnical examination is computer-based and is administered by the California Board for Professional Engineers, Land Surveyors, and Geologists.

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 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; EE 2-1993(Temp), f. & cert. ef. 2-22-93; EE 3-1993, f. & cert. ef. 6-3-93; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 3-1994(Temp), f. & cert. ef. 11-21-94; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 2-2015, f. & cert. ef. 5-21-15; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0442**
**Application Deadlines**

(1) Deadlines to submit applications for admission to examinations based on the schedule contained in OAR 820-010-0440 are:

(a) December 1 is the deadline for applications for the Spring examination administration.

(b) January 1 is the deadline for applications for readmission to the Spring examination administration.

(c) June 1 is the deadline for applications for the Fall examination administration.

(d) July 1 is the deadline for applications for readmission to the Fall examination administration.

(2) Applicants may request to withdraw an application and fees paid to the Board for consideration from an examination administration. An application and fees paid to the Board may be withdrawn and forwarded to the next available examination administration only.

(a) Request must be made in writing; and

(b) Request must be made no later than March 1 to withdraw from the Spring examination administration or no later than September 1 to withdraw from the Fall examination administration; and

(c) The request can only be made once per application.

(3) Deadlines to submit applications for registration as a PE or RPP based on licensure by another jurisdiction (comity) or based on examination by another jurisdiction or NCEES (1st registration) are the first day of the month prior to the month of a Board meeting.

(4) Deadlines to submit applications for registration as a PLS based on licensure by another jurisdiction (comity) or based on examination by another jurisdiction or NCEES (1st registration) are:

(a) February 1st to sit for the Spring Oregon Specific Land Surveying examination.

(b) August 1st to sit for the Fall Oregon Specific Land Surveying examination.

(c) If successful results on the Oregon Specific Land Surveying examination are not attained, the applicant must comply with the readmission deadlines contained in subsection (1) of this rule.

(5) All applications must be postmarked or hand delivered by 5:00 p.m. on the deadline. If the deadline falls on a Saturday, Sunday, or legal Holiday, applications are accepted until 5:00 p.m. on the following business day.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; 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; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0443**
**Requests for Reasonable Accommodations for Oregon State Specific Examinations**

Applicants for admission to Oregon State Specific examinations may request reasonable accommodations to the administration. Reasonable

accommodations may be provided for applicants who have documented disabilities within the meaning of the American Disabilities Act (ADA) of 1990 or for applicants whose religious convictions prohibit them from testing on the scheduled examination date. Requests must be submitted with the application by the dates specified in OAR 820-010-0442.

(1) Requests for reasonable accommodations to Oregon State Specific examinations administered by the Board must be submitted on the Board approved form and accompanied by supporting documentation.

(2) Requests for reasonable accommodations to the examination for certification as a water right examiner must be submitted on the Board approved form.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0444**
**Proctoring of Examinations**

(1) The Board has determined an outside testing provider will administer the NCEES examinations on behalf of the Board.

(2) The acoustical, forest, California geotechnical, and four-hour Oregon Specific land surveying examinations are administered by the Board and will be held only at the time and place prescribed by the Board within the State of Oregon.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 4-2012, f. & cert. ef. 9-14-12; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0450**
**Branches Examined and Issued by the Board**

The Board may conduct examinations and issue registrations in accordance with the following:

(1) Examinations may be offered annually and successful examinees will be registered as professional engineers especially qualified in one of the branches listed below. The applicant will be limited to the selection of examination questions pertaining to that branch:

(a) Acoustical;
(b) Agricultural;
(c) Chemical;
(d) Civil;
(e) Control Systems;
(f) Electrical and Computer;
(g) Environmental;
(h) Fire Protection;
(i) Forest;
(j) Geotechnical;
(k) Industrial;
(l) Mechanical;
(m) Metallurgical;
(n) Naval Architecture/Marine;
(o) Nuclear;
(p) Structural.

(2) Persons desiring to be registered as a professional engineer naming a branch other than one listed under section (1) of this rule as one in which the individual is especially qualified may petition the Board to amend the list. Procedures are designated in the Model Rules of Procedure under the Administrative Procedure Act, OAR 137-001-0070. Information in the petition shall include:

(a) The public need for recognition of the new discipline;
(b) The number of potential registrants that would be affected;
(c) Whether the new branch is a specialty under an already recognized discipline; and
(d) Recommendations for examination sources in that discipline.

(3) The Board may, at its option, discontinue examining and registering in any branch at any time that it receives fewer than six qualified applicants in that branch in a three-year period.

(4) For a registration as a professional land surveyor the applicant will be examined in land surveying.

(5) For a registration as a professional photogrammetrist the applicant will be examined in photogrammetry.

(6) For certification as a water right examiner, the applicant will be examined on water right applications and the preparation of claims of beneficial use.

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 20, f. & ef. 12-15-77; EE 2-1978, f. 12-21-78, ef. 1-1-79; EE 1-1981, f. 5-19-81, ef. 6-1-81; EE 1-1984, f. & ef. 3-6-84; 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 3-1992, f. 3-19-92, cert. ef. 4-1-92; EE 5-1993, f. 8-3-93, cert. ef. 8-13-93; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 1-2004, f. & cert. ef. 1-26-04; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 1-2010, f. & cert. ef. 5-12-10; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0455**
**Exemption from FE or FLS Examination**

An applicant for registration as a professional engineer, land surveyor, or photogrammetrist who is enrolled as an EI or LSI will be excused from the respective FE or FLS examination. The applicant must file with the application evidence of valid EI (Engineering Intern) or LSI (Land Surveying Intern) enrollment.

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 1-1984, f. & ef. 3-6-84; 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 3-2008, f. & cert. ef. 11-14-08; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0460**
**Exemption from FE Section**

Any applicant who was previously registered as a professional engineer in one branch of engineering by this Board, shall be excused from the FE section should the applicant desire admission to examination for registration in any other branch of engineering.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented:
Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0463**
**Cutoff Scores for Examinations**

(1) The cutoff scores for the FE, FLS, PE, PLS, and Structural 16-hour examinations are established by NCEES.

(2) The cutoff scores for the acoustical, forest, and four-hour Oregon specific land surveying examinations are 70 points out of 100 points.

(3) The cutoff score for the photogrammetric mapping examination is established by the Colonial States Board of Surveyor Registration (CSBSR).

(4) The cutoff score for the California Geotechnical examination is established by the California Board for Professional Engineers, Land Surveyors, and Geologists (California Board).

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2015, f. & cert. ef. 2-3-15; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0465**
**Application for Readmission to Examination**

(1) Applicants for registration as a PE, PLS, or RPP, and for EI and LSI enrollment who did not achieve a passing grade in their first and second written NCEES examinations will, before re-admittance to a subsequent examination, be required to submit valid evidence of further preparation on their part based on the diagnostic report of deficiencies for each of the major topics covered. Such evidence must include proof of one or more of the following:

(a) Courses of study undertaken;
(b) Special training; or
(c) Additional experiences gained since their last examination.

(2) Applicants for readmission to an Oregon Specific examination who did not achieve a passing grade in their first and second written examinations will, before re-admittance to a subsequent examination, be required to submit valid evidence of further preparation on their part. Such evidence must include proof of one or more of the following:

(a) Courses of study undertaken;
(b) Special training; or
(c) Additional experiences gained since their last examination.

(3) If two or more examination administrations have passed since the date the last application was made to the Board, applicants must provide the following updated documents:

(a) Experience Details form; and
(b) One Reference Details form.

(4) In all cases, submitted proof must be satisfactory to the Board.

(5) Application for readmission and fees will not be accepted prior to the release of the results from the preceding examination.

(6) If five years or more have passed since the date the last application was made to the Board, applicants must submit a new initial application along with all supporting documents and a full application fee.

(7) Applications for computer-based fundamental examinations will be valid for one year from the date of correspondence indicating Board approval.

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 20, f. & ef. 12-15-77; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 2-2015, f. & cert. ef. 5-21-15; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0470**
**Review of Examinations Administered by the Board**

(1) With respect to the acoustical, forest, and four-hour Oregon Specific land surveying examinations administered by the board, an applicant may submit a written request to review the applicant's own examination results. The board will allow a two-hour examination review when the applicant failed the examination and the applicant achieved a score within five points of the cutoff score. With respect to such reviews;

(a) An applicant may examine the test booklet, solution pamphlet and answer key.

(b) An acoustical, forest, or four-hour Oregon Specific Land Surveying applicant may review the examination on only one occasion. The board will prescribe a time and place for the review. Applicants must notify the board at least five days before the scheduled date that they review their examinations. Applicants who fail to review their examination at the prescribed time and place will not be allowed to reschedule a review of the examination.

(c) All examination reviews will be conducted in the presence of a person designated by the board.

(d) Except as allowed by the board for persons requiring disability assistance, no person may accompany the applicant during the examination review.

(e) The applicant will not take any materials into nor remove any materials from the location where the examination review is conducted.

(f) The applicant may prepare and submit a written request for rescoring the applicant's examination, provided that the applicant's score otherwise satisfies the requirements of this section, while at the location where the examination review is conducted.

(2) The board may rescore an essay response for a qualified applicant if the applicant demonstrates, in writing, sufficient technical justification that their solution deserves reconsideration. The board's rescore determination is final and not subject to further review. An applicant requesting the board to rescore an examination must submit a complete written request within the two-hour timeframe.

(3) With respect to the certified water right examiner test, an applicant may submit a written request to review the applicant's own test results. The board will allow an examination review where the applicant failed the test and the applicant achieved a score within five points of the cutoff score. With respect to such reviews.

(a) An applicant may examine only the question, solution, and answer key for the failed problem.

(b) An applicant may review the test on only one occasion. The board will prescribe a time and place for the review.

(c) All test reviews will be conducted in the presence of a person designated by the board.

(d) Except as allowed by the board for persons requiring disability assistance, no person may accompany the applicant during the test review.

(4) Fee for rescore requests of examinations must accompany the written request. Acoustical, forest, certified water right test, or four-hour Oregon Specific Land Surveying examination — $50/ per item to be rescored. Fee is payable to the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS).

(5) As the California Board does not facilitate examination reviews and appeals, California Geotechnical examination reviews are not permitted.

(6) Photogrammetry examination reviews are not permitted.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 3-1986, f. & ef. 7-21-86; EE 1-1989, f. & cert. ef. 1-3-89; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 4-2012, f. & cert. ef. 9-14-12; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0480**
**NCEES Examinations**

(1) As NCEES does not facilitate examination reviews and appeals, NCEES examination reviews are not permitted.

(2) Examinees are subject to the NCEES 2012 Examination Administration Policies. For the purposes of investigations of potential violations of OAR 820-020-0040, the Board will consider recommendations from NCEES for any breach of examination security and examination subversion.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2013, f. & cert. ef. 3-13-13; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0500**
**Qualifications of Administrative Officer (Administrator)**

The administrative officer of the Oregon State Board of Examiners for Engineering and Land Surveying authorized by ORS 670.306 shall:

(1) Not be a member of the Board.

(2) Serve at the pleasure of the Board.

(3) Receive such compensation as the Board may determine.

(4) Perform such duties as assigned by the Board.

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 20, f. & ef. 12-15-77; EE 1-1983, f. 2-28-83, ef. 3-1-83; EE 1-1984, f. & ef. 3-6-84; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 3-2003(Temp), f. 5-14-03, cert. ef. 5-15-03 thru 11-11-03; BEELS 5-2003(Temp), f. 11-10-03, cert. ef. 11-12-03 thru 5-8-04; BEELS 1-2004, f. & cert. ef. 1-26-04; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0600**
**Records**

The Board will maintain and store records pursuant to OAR 166 division 350, on professional registrants registered by the Board, EIs and LSIs enrolled by the Board, and certification of water right examiners by the Board.

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 20, f. & ef. 12-15-77; EE 2-1986, f. 3-26-86, ef. 3-31-86; 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 1-2005, f. & cert. ef. 3-16-05; BEELS 3-2008, f. & cert. ef. 11-14-08; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0605**
**Address Changes; Service of Notice; and Name Changes**

(1) It is the registrant's responsibility to inform the Board in writing, within 30-days, of any address change, including any change of an e-mail address. Notice by registered or certified mail to the registrant's last address on file with the Board shall constitute service.

(2) It is the registrant's responsibility to inform the Board in writing, within 30-days, of any name change. Documentation showing current legal name must be submitted.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 2-1980, f. & ef. 5-14-80; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0617**
**Civil Penalty Factors**

(1) In establishing the amount of a civil penalty to be assessed pursuant ORS 672.325, the Board may consider the following factors:

(a) The nature, gravity and magnitude of the violation;

(b) Prior violations, including administrative, civil or criminal proceedings in any state;

(c) Whether the violation was repeated or continuous;

(d) Whether the violation was an inadvertent act or an intentional act;

(e) The history of the respondent in taking steps necessary or appropriate to correct any violation;

(f) The opportunity for and the difficulty in correcting the violation at issue.

(2) In considering the factors set forth in section (1) of this rule, the applicable factors may be given varying weight depending upon the circumstances of the violation.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 4-1981, f. & ef. 12-14-81; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 2-2006, f. & cert. ef. 11-21-06; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0619**
**Civil Penalties for Violations of ORS 92.040 to 92.080, 209.250, and County Ordinances**

Pursuant to ORS 209.250(11), the Board may impose civil penalties against a registrant for any violation of ORS 92.040 to 92.080, 209.250(1) to (9), or of any county ordinance that establishes standards or plats, in an amount not to exceed $1,000 per offense.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 6-2005, f. & cert. ef. 12-13-05; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

**820-010-0625**
**Registration and Certificate Number**

Professional engineer, professional land surveyor, and professional photogrammetrist registration numbers; EI and LSI enrollment numbers; and water right examiner certificate numbers will be issued by the Board consecutively in the order in which applicants make application to and qualify before the Board. No discrimination or preference will be permitted in issuing numbers.

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 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 6-2005, f. & cert. ef. 12-13-05; BEELS 1-2010, f. & cert. ef. 5-12-10; Suspended by BEELS 6-2015(Temp), f. 8-25-15, cert. ef. 8-26-15 thru 2-16-16

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## Board of Parole and Post-Prison Supervision
## Chapter 255

**Rule Caption:** Establish classification rules to begin implantation of the Sex Offender Notification Level System.
**Adm. Order No.:** PAR 3-2015(Temp)
**Filed with Sec. of State:** 8-27-2015
**Certified to be Effective:** 8-27-15 thru 2-19-16
**Notice Publication Date:**
**Rules Adopted:** 255-085-0010, 255-085-0020, 255-085-0030, 255-085-0040, 255-085-0050
**Subject:** To begin implementation of ORS 181.800 through 181.803, HB 2549 (2013, and HB 2320 (2015).
**Rules Coordinator:** Shawna Harnden—(503) 945-0914

**255-085-0010**
**Definitions**

The following definitions apply to OAR 255-085-0001 to 255-085-0050:

(1) "Adult male registrant" means a male who was convicted of a sex crime and required to register as a sex offender or who was found guilty except for insanity of a sex crime and required to register as a sex offender, and was at least 18 years of age when he committed the offense.

(2) "Category B registrant" means a person of either gender or any age at the time of crime commission who is required to register as a sex offender based only on a conviction for a Category B sex crime.

(3) "Category B sex crime" means any type of criminal offense within the scope of "Category B offenses" used to administer the Static-99R and listed in Exhibit Q-II and which is also a sex crime for which reporting is required.

(4) "Existing registrant" means a person for whom the event triggering the obligation to make an initial report under ORS 181.806(3)(a)(A), 181.807(4)(a)(A), 181.808(1)(a)(A), 2(a)(A) or (3)(a)(A) occurred before January 1, 2014.

(5) "Female registrant" means a female who was convicted of a sex crime and required to register as a sex offender or who was found guilty except for insanity of a sex crime and required to register as a sex offender, regardless of her age when she committed the offense.

(6) "Sex crime" has the definition contained in ORS 181.805(5).

(7) "Young male registrant" means a male who was convicted of a sex crime and required to register as a sex offender or who was found guilty except for insanity of a sex crime and required to register as a sex offender, and who was 17 years of age or younger when he committed the offense.

Stat. Auth: ORS 181.800 and 181.803
Stat. Implemented:
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16

**255-085-0020**
**Sex Offender Risk Assessment Methodology**

(1) For classification and community notification for adult male registrants, the classifying agency shall use the Static-99R (Exhibit Q-I) and definitions (Exhibit Q-II). Classifying agencies shall score and place into one of the following levels:

(a) Level I: Low (Static-99R score of -3 to 3);

(b) Level II: Moderate (Static-99R score of 4 to 5); or

(c) Level III: High (Static-99R score of 6 or higher).

(2) For classification of female registrants, category B registrants, and young male registrants, the classifying agency shall use the Level of Services/Case Management Inventory (LS/CMI) as supplemented by an independent sexual offense-specific evaluation report. Classifying agencies shall score and place the registrant into one of the following levels:

(a) Level I: Low (Score 0 to 10; LS/CMI as supplemented by an independent sexual offense-specific evaluation);

(b) Level II: Moderate (Score 11 to 19; LS/CMI as supplemented by an independent sexual offense-specific evaluation); or

(c) Level III: High (Score 20 or higher; LS/CMI as supplemented by an independent sexual offense-specific evaluation).

(3) Classifying agencies shall classify a person as a Level III sex offender who is designated as sexually violent dangerous offenders under ORS 137.765.

(4) The Board shall classify the following existing registrants as Level III sex offenders:

(a) A person who was previously designated as a predatory sex offender between February 10, 2005 and December 31, 2013;

(b) A person who is designated as a sexually violent dangerous offender under ORS 137.765;

(5) The Board or the Psychiatric Security Review Board shall classify an existing registrant who refuses or fails to participate in a sex offender risk assessment as directed by the classifying agency as a Level III sex offender on or after December 1, 2018.

Stat. Auth: ORS 181.800 and 181.803
Stat. Implemented: ORS 181.800 and 181.803
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16

**255-085-0030**
**Timelines for Classifying Registrants**

(1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sentenced to a term of imprisonment in a Department of Corrections institution for that crime, the Board shall conduct a risk assessment of the person utilizing the risk assessment methodology in OAR 255-085-0020 before the person is released from custody.

(2) Subject to the procedures set forth in this rule, for a person described in ORS 181.801(4) who has not been assessed or classified prior to release, the Board shall conduct a risk assessment of the person utilizing the risk assessment methodology in OAR 255-085-0020 within 60 days of either the person's release from custody or the person's initial obligation to report in the State of Oregon.

(3) For persons who were released from custody or whose initial obligation to register occurred on or after January 1, 2014 but before the adoption of these rules, the Board shall conduct a risk assessment as soon as practicable.

(4) The Board will classify existing registrants by December 1, 2018.

Stat. Auth: ORS 181.801 and 181.802
Stat. Implemented: ORS 181.801 and 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16

**255-085-0040**
**Procedures for Classifying Adult Male Registrants**

(1) The procedures contained in this administrative rule apply to all male offenders who are required to register as sex offenders and who were at least 18 years of age when they committed the offense that created the obligation to register.

(2) The Board will provide to the registrant the Static-99R score and a copy of the completed assessment, the Notice of Rights form (Exhibit SO-1 or SO-2), and the Written Objections form (Exhibit SO-3).

(3) Following the notification in subsection (2), the following timelines apply for a registrant to waive objections:

(a) If the registrant is supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the Static-99R score, the registrant will forward the Notice of Rights form (Exhibit SO-1) indicating the registrant's waiver to the Board within three business days of receiving the Notice of Rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the Static-99R score, the registrant will forward the Notice of Rights form (Exhibit SO-2) indicating the registrant's waiver to the Board within 60 days after the mailing date on the Notice of Rights.

(c) The Board will notify the Department of State Police of the results of the risk assessment and final classification within three business days of the date of the final classification.

(d) A registrant's refusal to participate in the notice of rights process shall be considered a waiver of objections to the Static-99R score.

(4) Following the notification in subsection (2), the following timelines apply for a registrant to submit written objections.

(a) If the registrant is supervised or in custody of the Department of Corrections, the registrant must submit his Static-99R assessment, the Notice of Rights form (exhibit SO-1) and any Written Objections (Exhibit SO-3) to the Static-99R score within three business days after receiving the Notice of Rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections, the registrant must submit any his Static-99R assessment, the Notice of Rights form (Exhibit SO-2) and any Written Objections (Exhibit SO-3) to the Static-99R score to the Board within 60 days after the mailing date on the Notice of Rights.

(c) Objections that are not submitted within these timelines will not be reviewed, and the Board will proceed to final classification.

(5) Upon receipt of any timely submitted Written Objections (Exhibit SO-3), a Hearings Officer will conduct a review of the Static-99R score and supporting documents. The Hearings Officer will verify the accuracy of each point awarded on the Static-99R and prepare a memo that responds to the registrant's written objections. The Hearing Officer's review will detail the finding of the Static-99R and make a determination as to whether the registrant's Static-99R score is accurate or should be changed. Upon completing the review, the Hearings Officer will submit to the Board a memo detailing the review, as well as any information considered by the Hearing Officer.

(6) The Board will review the Hearings Officer's memo and will order the final classification level based on the Static-99R score and notify the Department of State Police of the results of the risk assessment within three business days of the date of the final classification.

(7) The Board's classification decision shall be final. The Board's classification decision is not subject to review under OAR chapter 255 division 80.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth: ORS 181.800, 181.801, 181.802
Stat. Implemented: ORS 181.800, 181.801, 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16

**255-085-0050**
**Procedures for Classifying Young Male Registrants, Female Registrants, and Category B Registrants**

(1) These procedures apply to offenders for whom the Static-99R is not an appropriate assessment methodology as outlined in OAR 255-085-0020.

(2) With the cooperation of the Department of Corrections, the Board will identify young male registrants, female registrants, and Category B registrants sentenced to a term of imprisonment in a Department of Corrections institution for a sex crime.

(3) The Board will notify young male registrants, female registrants, and Category B registrants of the registrant's obligation to participate in the assessment and evaluation processes, the registrant's option to request a review of the assessment and evaluation, as well as the Board's final review of the review and evaluation report.

(4) Subject to the risk assessment methodology set forth in these administrative rules, the Board will classify young male registrants, female registrants, and Category B registrants based on the LS/CMI and findings from an independent sexual offense-specific evaluation performed by a qualified provider who is certified by the Oregon Sex Offender Treatment Board to conduct sexual offense risk assessments. The independent evaluator will provide the Board with a written report stating the recommended sex offender classification and notification level, and will provide information regarding the registrant's risk for sexual re-offense. The evaluator should weigh the LS/CMI score when recommending a sex offender classification and notification level based on the sexual offense-specific evaluation.

(5) The Board will provide the registrant with a copy of the completed LS/CMI assessment and the independent sexual offense-specific evaluation report, the Notice of Rights form (Exhibit SO-1L or SO-2L), and the Written Objections form (Exhibit SO-3L).

(6) Following the notification in subsection (5), the following timelines apply for a registrant to waive objections:

(a) If the registrant is supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the LS/CMI score and evaluation report, the registrant will forward the Notice of Rights form (SO-1L) indicating the registrant's waiver to the Board within three business days of receiving the notice of rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the LS/CMI score and evaluation report, the registrant will forward the Notice of Rights form (SO-2L) indicating the registrant's waiver to the Board within 60 days after the mailing date on the Notice of Rights.

(c) The Board will notify the Department of State Police of the results of the risk assessment and final classification within three business days after the final classification.

(d) Refusal to participate in the notice of rights process will be considered a waiver of objections to the LS/CMI score and evaluation report.

(7) Following the notification in subsection (5), the following timelines apply for a registrant to submit written objections.

(a) If the registrant is supervised or in custody of the Department of Corrections, the registrant must submit the LS/CMI, evaluation report, Notice of Rights (SO-1L), and any Written Objections (Exhibit SO-3L) to the assessment and evaluation findings to the Board within three business days after receiving the Notice of Rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections, the registrant must submit any Written Objections (Exhibit SO-4L) to the assessment and evaluation findings within 60 days after the mailing date on the Notice of Rights.

(c) Objections that are not submitted within these timelines will not be reviewed, and the Board will proceed to final classification.

(8) Upon the Board's receipt of the Written Objections (Exhibit SO-3L), a Hearings Officer will complete a review of the LS/CMI score, evaluation, and supporting documents. The review will verify the information, and the Hearings Officer will prepare a memo responding to the written objections, detail the finding of the evaluator, and make a determination as to whether the registrant's LS/CMI score is accurate or should be changed.

(a) If the score places the registrant in Level I or Level II, the Hearings Officer will provide this memo to the Board along with any information considered.

(b) If the score places the registrant in Level III, the Hearings Officer will schedule a hearing with the registrant. The following procedures shall apply:

(A) The Hearings Officer will provide the registrant with the documentation submitted for review 14 days before the hearing.

(B) At the hearing, the registrant may present additional evidence or information regarding the LS/CMI score and evaluator's report.

(C) The Hearings Officer will write a supplement to the memo as provided for in subsection (9) of this rule and will provide the supplement to the Board.

(D) A registrant's refusal to participate in the hearing shall be considered a waiver.

(9) The Board will review the Hearings Officer's memo. The Board will order the classification level based on the LS/CMI score, evaluator's report, and any additional findings and memorandum made by Hearings Officer, and will notify the Department of State Police of the registrant's final classification within three business days of the date the Board makes its final classification.

(10) The Board's classification decision shall be final. The Board's classification decision is not subject to review under OAR chapter 255 division 80.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth: ORS 181.800, 181.801, 181.802
Stat. Implemented: ORS 181.800, 181.801, 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16

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## Board of Pharmacy
## Chapter 855

**Rule Caption:** Continuing education requirements for new Certified Oregon Pharmacy Technicians.
**Adm. Order No.:** BP 6-2015(Temp)
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-21-15 thru 2-16-16
**Notice Publication Date:**
**Rules Amended:** 855-025-0015
**Subject:** Clarifies in rule that newly licensed Certified Oregon Pharmacy Technicians do not need to complete the annual continuing education requirements prior to their first renewal.
**Rules Coordinator:** Karen MacLean—(971) 673-0001

**855-025-0015**
**Renewal of Licensure as a Certified Pharmacy Technician**

(1) A person who has taken and passed a national pharmacy technician certification examination listed in OAR 855-025-0012(1)(a)–(b) may use the following title, are referred to in these rules as, and are licensed as a "Certified Oregon Pharmacy Technician."

(2) An applicant for renewal of a Certified Oregon Pharmacy Technician license must:

(a) Pay the license fee prescribed in OAR 855-110.

(b) Satisfactorily complete a minimum of 10 continuing pharmacy educating hours during the period from September 1 through August 31, of each license renewal cycle. These hours must include:

(A) One hour of continuing pharmacy education in pharmacy law;

(B) One hour of continuing pharmacy education in patient safety or error prevention; and

(C) Eight other hours of continuing pharmacy education hours or documented onsite training, approved by the Board.

(D) OAR 855-025-0015(2)(b) does not apply to Certified Oregon Pharmacy Technicians applying for the first renewal of their license if they have not been licensed by the Board for at least one year prior to October 1 of the renewal period.

(c) Be subject to an annual criminal background check.

(3) The Board may randomly select and audit applications for renewal to verify completion of the continuing education or documented onsite training reported on the application for renewal. Certified Oregon Pharmacy Technicians whose applications for renewal are selected for audit must provide documentation of completion of the continuing pharmacy education reported.

(4) Effective January 1, 2015, national certification is not required to renew a license as a Certified Oregon Pharmacy Technician.

(5) A Certified Oregon Pharmacy Technician who fails to renew his or her license by the expiration date and whose license has been lapsed less than 180 days may renew his or her license as follows:

(a) Pay the license fee as prescribed in OAR 855-110.

(b) Pay a delinquent fee.

(6) A Certified Oregon Pharmacy Technician who fails to renew their license by the deadline and whose license has been lapsed 180 days may reinstate his or her license under OAR 855-025-0060(1).

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2006, f. & cert. ef. 6-9-06; BP 10-2014, f. 12-30-14, cert. ef. 1-1-15; BP 6-2015(Temp), f. & cert. ef. 8-21-15 thru 2-16-16

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## Bureau of Labor and Industries
## Chapter 839

**Rule Caption:** Amendments to clarify, conform with authorities, correct citations.
**Adm. Order No.:** BLI 12-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 8-28-15
**Notice Publication Date:** 10-1-2014
**Rules Amended:** 839-006-0240, 839-006-0244, 839-006-0280, 839-006-0290, 839-006-0305, 839-006-0335, 839-006-0340, 839-006-0345, 839-006-0435, 839-006-0440, 839-006-0450, 839-006-0455, 839-006-0470, 839-006-0480
**Subject:** Amendments to clarify, conform with authorities, correct citations. Clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring.
**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

**839-006-0240**
**Temporary or Progressive Impairments**

(1) The effects of an impairment lasting or expected to last fewer than six months can be substantially limiting within the meaning of ORS 659A.104 and these rules.

(2) Conditions that are progressive (including, but not limited to, cancer, Hodgkin's disease, multiple sclerosis and HIV infection, whether or not such condition substantially limits the individual in any major life activity at the time of the alleged discrimination) may not form the basis for an employer to refuse to employ or promote; bar or discharge from employment; or discriminate in compensation, terms, conditions or privileges of employment.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.103 - 659A.142
Hist.: BL 2-1984, f. & ef. 1-31-84; BL 15-1990, f. 10-29-90, cert. ef. 11-1-90; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98; BLI 15-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0244**
**Direct Threat to Health or Safety, Employment**

(1) Notwithstanding other provisions of these rules, an employer may refuse to employ an individual with a disability posing a direct threat to the health or safety of others. Direct threat means significant risk of substantial harm that cannot be eliminated or reduced below the level of significant risk of substantial harm by reasonable accommodation.

(2) The determination that an individual with a disability poses a "direct threat" is based on an individualized assessment of the individual's present ability to safely perform the essential functions of the position. The assessment must be based on a reasonable medical judgment that relies on the most current medical knowledge or on the best available objective evidence. In making the determination, factors to be considered include:

(a) The duration of risk;

(b) The nature and severity of potential harm;

(c) The likelihood that potential harm will occur; and

(d) The imminence of potential harm.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.103 - 659A.142
Hist.: BL 2-1984, f. & ef. 1-31-84; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98, Renumbered from 839-006-0230; BLI 15-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 14-2008, f. 5-30-08, cert. ef. 6-6-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0280**
**Definitions — Discrimination by State Government on the Basis of Disability**

(1) For purposes of ORS 659A.142(5) and these rules, "state government" has the meaning given to that term in ORS 174.111 and includes the executive, judicial and legislative departments of state government. Consistent with ORS 174.108(3), it does not include the Oregon Health and Science University, the Oregon State Bar, any intergovernmental entity formed by a public body with another state or with a political subdivision of another state, or any intergovernmental entity formed by a public body with an agency of the federal government.

(2) Pursuant to ORS 174.112, "executive department" means all statewide elected officers other than judges, and all boards, commissions, departments, divisions and other entities, without regard to the designation given to those entities, that are within the executive department of government as described in Article III, Section 1 of the Oregon Constitution, and that are not in the judicial department, legislative department, local governments or special government bodies. "Executive department" includes:

(a) An entity created by statute for the purpose of giving advice only to the executive department and that does not have members who are officers or employees of the judicial department or legislative department;

(b) An entity created by the executive department for the purpose of giving advice to the executive department, if the document creating the entity indicates that the entity is a public body; and

(c) Any entity created by the executive department other than an entity described in paragraph (b) of this subsection, unless the document creating the entity indicates that the entity is not a governmental entity or the entity is not subject to any substantial control by the executive department.

(3) Pursuant to ORS 174.113, "judicial department" means the Oregon Supreme Court, the Oregon Court of Appeals, the Oregon Tax Court, the Oregon circuit courts and all administrative divisions of those courts, whether denominated as boards, commissions, committees or departments or by any other designation. "Judicial department" includes:

(a) An entity created by statute for the purpose of giving advice only to the judicial department and that does not have members who are officers or employees of the executive department or legislative department;

(b) An entity created by the judicial department for the purpose of giving advice to the judicial department, if the document creating the entity indicates that the entity is a public body; and

(c) Any entity created by the judicial department other than an entity described in paragraph (b) of this subsection, unless the document creating the entity indicates that the entity is not a governmental entity or the entity is not subject to any substantial control by the judicial department.

(4) Pursuant to ORS 174.114, "legislative department" means the Legislative Assembly, the committees of the Legislative Assembly and all administrative divisions of the Legislative Assembly and its committees, whether denominated as boards, commissions or departments or by any other designation. "Legislation department" includes:

(a) An entity created by statute for the purpose of giving advice only to the legislative department and that does not have members who are officers or employees of the executive department or judicial department;

(b) An entity created by the legislative department for the purpose of giving advice to the legislative department, but that is not created by statute, if the document creating the entity indicates that the entity is a public body; and

(c) Any entity created by the legislative department by a document other than a statute and that is not an entity described in paragraph (b) of this subsection, unless the document creating the entity indicates that the entity is not a governmental entity or the entity is not subject to any substantial control by the legislative department.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.103, 659A.104, 659A.106, 659A.109, 659A.139, 659A.142
Hist.: BLI 21-2005, f. 10-20-05, cert. ef. 10-21-05; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0290**
**Other Statutes, Regulations and Agencies Governing Access by or Discrimination against Persons with Disabilities**

(1) Public transportation services, programs, and activities of public entities are subject to Title II of the federal Americans with Disabilities Act and regulated by the U.S. Department of Transportation. See 42 USC 12141§ 221 and 49 CFR §37. Public transportation is covered by ORS 659A.142(4).

(2) Accessibility of government facilities is subject to Title II of the Americans with Disabilities Act, 42 USC §12131. The U.S. Department of Justice regulates existing government facilities (28 CFR §35.150) and new construction and alterations to government facilities (28 CFR §35.151). The Oregon Department of Consumer and Business Services has jurisdiction over disability access to state and local government facilities in Oregon. See ORS 447.210 to 447.310 and administrative rules and standards adopted pursuant thereto.

(3) The federal Rehabilitation Act provides that no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any federal executive agency or by the United States Postal Service. 29 USC §794.

(4) Discrimination against individuals with disabilities in employment is subject to ORS 659A.103 to 659A.139 and OAR 839-006-0200 to 0265.

(5) Discrimination against individuals with disabilities by places of public accommodation, which include public bodies with some exceptions, is subject to ORS 659A.142(4), 659A.400 and OAR 839-006-0300 to 0335.

(6) Assistance animals in places of public accommodation or access to state government are subject to ORS 659A.143 and OAR 839-006-0345.

(7) Discrimination against individuals with disabilities in real property transactions is subject to ORS 659A.142, 659A.145 and OAR 839-005-0195 to 839-005-0220.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.103–143, 659A.400
Hist.: BLI 21-2005, f. 10-20-05, cert. ef. 10-21-05; BLI 14-2008, f. 5-30-08, cert. ef. 6-6-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 15-2013, f. & cert. ef 12-30-13; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0305**
**Definitions**

(1) "Disability" has the meaning given in OAR 839-006-0205.

(2) "Major life activity" has the meaning given in OAR 839-006-0205(6).

(3) "Physical or mental impairment" has the meaning given in OAR 839-006-0205(9).

(4) "Place of public accommodation" means:

(a) Any place or service offering to the public accommodations, advantages, facilities or privileges whether in the nature of goods, services, lodgings, amusements, transportation or otherwise;

(b) Any place that is open to the public and owned or maintained by a public body, as defined in ORS 174.109, regardless of whether the place is commercial in nature; or

(c) Any service to the public that is provided by a public body, as defined in ORS 174.109, regardless of whether the service is commercial in nature.

(5) A place of public accommodation does not include:

(a) A Department of Corrections institution as defined in ORS 421.005;

(b) A state hospital as defined in ORS 162.135;

(c) A youth correction facility as defined in ORS 420.005;

(d) A local correction facility or lockup as defined in ORS 169.005; or

(e) An institution, bona fide club or place of accommodation that is in its nature distinctly private.

(6) "Substantially limits" has the meaning given in OAR 839-006-0205(12).

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.142, 659A.400
Hist.: BLI 15-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 9-2006, f. 3-16-06, cert. ef. 3-20-06; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 15-2013, f. & cert. ef 12-30-13; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0335**
**Direct Threat to Health or Safety: Places of Public Accommodation**

(1) Notwithstanding other provisions of these rules, places of public accommodation may refuse to permit an individual with a disability to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of the public accommodation if the individual with a disability poses a direct threat to the health or safety of others. Direct threat means significant risk of substantial harm that cannot be eliminated or reduced below the level of significant risk of substantial harm by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services.

(2) In determining whether an individual with a disability poses a direct threat to the health or safety of others, places of public accommodation must make an individualized assessment, based on reasonable judgment that relies on the most current medical knowledge, or on the best available objective evidence, to ascertain:

(a) The duration of risk;

(b) The nature and severity of potential harm;

(c) The likelihood that potential harm will occur;

(d) The imminence of potential harm; and

(e) Whether reasonable modifications of policies, practices or procedures will mitigate the risk.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.103 & 659A.142
Hist.: BLI 15-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 14-2008, f. 5-30-08, cert. ef. 6-6-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0340**
**Discrimination Theories: Discrimination against Individuals with Disabilities by State Government or Places of Public Accommodation**

(1) A violation of discrimination laws against individuals with disabilities may involve either intentional or unintentional discrimination. Discrimination against individuals with disabilities need not be intentional to be unlawful. Unintentional discrimination may occur, for example, in situations involving adverse impact. To be protected from discrimination based on disability, an individual must have a disability, as defined in ORS 659A.104 and the relevant rules.

(2) Substantial evidence of intentional unlawful discrimination against an individual exists if the investigation of the Civil Rights Division ("division") reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(14) of these rules;

(b) The individual has a disability;

(c) The individual was harmed by an action of the respondent; and

(d) The individual's disability was the motivating factor for the respondent's action. In determining whether the individual's disability was the motivating factor for the respondent's action, the division uses whichever of the following theories applies:

(A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because that individual has a disability.

(B) Different or Unequal Treatment Theory: The respondent treats individuals with disabilities differently than others who do not have disabilities. When the respondent makes this differentiation because of the individual's disability and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(i) There must be substantial evidence that the individual was harmed by an action of the respondent under circumstances that make it appear that the respondent treated the individual differently than comparably situated individuals who do not have disabilities. Substantial evidence of discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support that an individual's dis-

ability was a motivating factor for the respondent's alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of unlawful discrimination exists.

(I) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

(II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's disability was also a substantial factor in the respondent's action, the division will determine there is substantial evidence of discrimination.

(ii) The individual with a disability at all times has the burden of proving that the individual's disability was the motivating factor for the respondent's unlawful action.

(3) Adverse impact by a place of public accommodation or by state government on the basis of disability: Substantial evidence of adverse impact discrimination does not require establishment of intentional discrimination as provided in (2) of this rule. Adverse impact discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12) of these rules;

(b) The respondent has a standard or policy that is applied equally.

(c) The standard or policy has the effect of screening out or otherwise affecting members of a protected class at a significantly higher rate than others who are not members of that protected class; and

(d) The complainant is a member of the protected class adversely affected by the respondent's standard or policy and has been harmed by the respondent's application of the standard or policy.

(4) Harassment by a place of public accommodation or by state government on the basis of disability:

(a) Conduct of a verbal or physical nature on the basis of disability is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (2) of this rule, is shown and:

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of creating an intimidating, hostile or offensive environment; or

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of receiving services, accommodations, advantages, facilities or privileges from a place of public accommodation or services, programs or activities of state government; or

(C) Submission to or rejection of such conduct is used as the basis for decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive environment is whether a reasonable person in the circumstances of the individual against whom the harassment is directed would so perceive it.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 & 659A.142

Hist.: BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; Renumbered from 839-006-0307 by BLI 15-2013, f. & cert. ef 12-30-13;BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0345**

**Assistance Animals in Places of Public Accommodation or of Access to State Government**

(1) "Assistance animal" means a dog or other animal designated by administrative rule that has been individually trained to do work or perform tasks for the benefit of an individual.

(2) "Assistance animal trainee" means an animal that is undergoing a course of development and training to do work or perform tasks for the benefit of an individual that directly relate to the disability of the individual.

(3) "Assistance animal trainer" means an individual exercising care, custody and control over an assistance animal trainee during a course of training designed to develop the trainee into an assistance animal.

(4) A place of public accommodation or of access to state government services, programs or activities may not:

(a) Ask an individual about the nature or extent of a disability that the individual has or may have;

(b) Require an individual to provide documentation proving that an animal is an assistance animal or an assistance animal trainee; or

(c) Notwithstanding any fee or admission charge imposed for pets, require that a person with a disability or an assistance animal trainer pay a fee or admission charge for an assistance animal or assistance animal trainee.

(5) A place of public accommodation or of access to state government services, programs or activities may:

(a) Ask whether an animal is required due to a disability; and

(b) Ask about the nature of the work or task that an animal is trained to do or perform or is being trained to do or perform, unless it is readily apparent that the animal performs or is being trained to perform work or a task for the benefit of a person with a disability.

(6) If a place of public accommodation or of access to state government services, programs or activities customarily charges a person for damages that the person causes to the place, the place may charge a person with a disability or an assistance animal trainer for damages that an assistance animal or assistance animal trainee causes to the place.

(7) A person with a disability or an assistance animal trainer must maintain control of an assistance animal or assistance animal trainee.

(a) Except as provided in this subsection, control shall be exerted by means of a harness, leash or other tether.

(b) If the use of a harness, leash or other tether would interfere with the ability of the animal to do the work or perform the tasks for which the animal is trained or is being trained, control may be exerted by the effective use of voice commands, signals or other means.

(c) If an animal is not under control as required in this subsection, a place of public accommodation or of access to state government services, programs or activities may consider the animal to be out of control for purposes of subsection (8) of this section.

(8)(a) Except as provided in this subsection, a place of public accommodation or of access to state government services, programs or activities may not deny a person with a disability or an assistance animal trainer the right to be accompanied by an assistance animal or assistance animal trainee in any area of the place that is open to the public or to business invitees.

(b) A place of public accommodation or of access to state government services, programs or activities may require a person with a disability or an assistance animal trainer to remove an assistance animal or assistance animal trainee if:

(A) The animal is not housebroken; or

(B) The animal is out of control and effective action is not taken to control the animal.

(c) A place of public accommodation or of access to state government services, programs or activities may impose legitimate requirements necessary for the safe operations of the place of public accommodation or the services, programs or activities. The place of public accommodation or of access to state government services, programs or activities shall ensure that the safety requirements are based on actual risks, not on speculation, stereotypes or generalizations about persons with disabilities.

(9) A place of public accommodation or of access to state government services, programs or activities shall make reasonable modifications as necessary to allow an opportunity for a person with a disability who is benefited by the use of an assistance animal to obtain goods, services and the use of the advantages, facilities and privileges of the place or the advantages, facilities and privileges of the state government services, programs or activities. For purposes of this subsection, except as provided in subsections (5) and (7) of this section, in addition to any other applicable accommodation requirement, allowing the presence of the assistance animal is a reasonable modification.

(10) If a place of public accommodation or of access to state government services, programs or activities requires a person with a disability to remove an assistance animal under subsection (8) of this section, the place or state government shall give the person with a disability a reasonable opportunity to obtain goods, services and the use of the advantages, facilities and privileges of the place or the advantages, facilities and privileges of the state government services, programs or activities without the assistance animal's presence.

(11) A place of public accommodation or of access to state government services, programs or activities is not required to provide care or supervision for an assistance animal or assistance animal trainee.

(12) The protection granted under this section to a person with a disability or an assistance animal trainer does not invalidate or limit the remedies, rights and procedures of any other federal, state or local laws that provide equal or greater protection of the rights of a person with a disability, an assistance animal trainer or individuals associated with a person with a disability.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.143, 659A.400

Hist.: BLI 15-2013, f. & cert. ef 12-30-13; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0435**
**Veterans' Preference in Public Employment**

(1) It is the policy of the State of Oregon that a public employer grant a preference in hiring and promotion to veterans and disabled veterans under the provisions of ORS 408.230.

(2) The requirement to grant a preference in hiring and promotion to veterans and disabled veterans under the provisions of ORS 408.230 applies only to a public employer's civil service positions.

(3) That a private employer may give employment preference in the hiring or promotion of employees under OL Ch. 86, Sec. 2 2014 does not preclude the filing of a complaint under ORS chapter 659A.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 408.230, 408.235, OL Ch. 86, Sec.2 2014
Hist.: BLI 37-2008, f. 11-6-08, cert. ef. 11-10-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0440**
**Definitions: Veterans' Preference**

(1) "Active duty" does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or a National Guard unit.

(2) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof. (Title 38 USC Part I Chapter 1 Section 101). Reserve components mean:

(a) The Army Reserve;
(b) The Navy Reserve;
(c) The Marine Corps Reserve;
(d) The Air force Reserve;
(e) The Coast Guard Reserve;
(f) The Army National Guard of the United States; and
(g) The Air National Guard of the United States.

(3) "Civil service position" means any position for which a hiring or promotion decision is made or required to be made based on the results of a merit based, competitive process that includes, but is not limited to, consideration of an applicant's or employee's relative ability, knowledge, experience and other skills.

(a) A "civil service" position need not be labeled a "civil service position."

(4) "Combat zone" means an area designated by the President of the United States by executive order in which, on the dates designated by executive order, the Armed Forces of the United States are or have engaged in combat.

(5) "Disabled veteran" means a person who has a disability rating from the United States Department of Veterans Affairs, a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty or a person who was awarded the Purple Heart for wounds received in combat.

(6) "Eligibility list" means a list of ranked eligible candidates for a civil service position who have become eligible for the position through a test or series of tests and who will be considered for the civil service position in ranked order. Rankings of eligible candidates identified as tiers, bands or other names function as eligibility lists for purposes of these rules.

(7) "Military leave" means any period of time for which a person is absent from a permanent civil service position for the performance of active duty in the Armed Forces of the United States.

(8) "Promotion" means any position with a higher maximum salary rate.

(9) "Public employer" includes a public body as defined in ORS 174.109, and any person authorized to act on behalf of the public body, with respect to control, management or supervision of any employee. "Public employer" includes but is not limited to:

(a) Employers in local governments;
(b) Employers in a public corporation created under a statute of this state and specifically designated as a public corporation; and
(c) Employers in any public body that is created by statute, ordinance or resolution that is not part of state government or local government.

(10) "Special qualifications" means qualifications added to minimum qualifications necessary at the time of appointment based on specific duties of the position to be filled. Special qualifications may include, but are not limited to bilingual skills, or licenses, permits and certifications required by law and screenings otherwise permitted by law, such as reference, criminal background and credit checks and physical fitness and drug tests.

(11) "Transferable skill" means a skill that a veteran has obtained through military education or experience that substantially relates, directly or indirectly, to the civil service position for which the veteran is applying.

(12) "Veteran" means a person who:

(a) Served on active duty with the Armed Forces of the United States:

(B) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released under honorable conditions;

(C) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;

(D) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;

(E) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or

(F) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;

(b) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or

(c) Is receiving a non service-connected pension from the United States Department of Veterans Affairs.

(d) For questions regarding military discharge, consult the Oregon Department of Veterans' Affairs website at http://www.oregon.gov/ODVA/docs/PDFs/Criminal_Justice_Portal/Military_discharge.pdf?ga=t

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 408.225, 408.230, 408.235
Hist.: BLI 37-2008, f. 11-6-08, cert. ef. 11-10-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 15-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 2-2012, f. & cert. ef. 2-8-12; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0450**
**Applying the Employment Preference**

(1) A public employer shall grant a preference to a veteran or disabled veteran who applies for a vacant civil service position or who seeks promotion to a civil service position with a higher maximum salary rate and who:

(a) Successfully completes an initial application screening or an application examination for the position; or

(b) Successfully completes a civil service test the employer administers to establish eligibility for the position; and

(c) Meets the minimum qualifications and any special qualifications for the position.

(2) At each stage of the application process a public employer will grant a preference to a veteran or disabled veteran who successfully completes an initial application screening or an application examination or a civil service test the public employer administers to establish eligibility for a vacant civil service position.

(3) For an initial application screening used to develop a list of persons for interviews, the public employer will add five preference points to a veteran's score and ten preference points to a disabled veteran's score.

(4) For an application examination, given after the initial application screening, that results in a score, the public employer will add five preference points to a veteran's and ten preference points to a disabled veteran's total combined examination score without allocating the points to any single feature or part of the examination.

(5) If a public employer uses an application examination that consists of an evaluation method of ranking an applicant that does not result in a score, the public employer will devise and apply methods by which the public employer gives special consideration in the public employer's hiring decision to veterans and disabled veterans.

(6) When an interview is a component of the selection process for a civil service position or for an eligibility list for a civil service position, a public employer shall interview each veteran:

(a) Whom the public employer determines meets the minimum qualifications and special qualifications for the civil service position or eligibility list; and

(b) Who submits application materials that the public employer determines show sufficient evidence that the veteran has the transferable skills required and requested by the public employer for the civil service position or eligibility list.

(7) A public employer is not required to comply with subsection (6) of this rule if the employer's practice is to generate an eligibility list without conducting interviews of possible candidates.

(8) A public employer may consult with the Oregon Military Department and the Department of Veterans' Affairs to determine whether

certain military education or experience produces a transferable skill. To evaluate a veteran's transferable skills from a transcript of military training, a public employer may consult the American Council on Education's website, "A Guide to the Evaluation of Educational Experiences in the Armed Services," at http://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 408.230, 408.235 & 408.237
Hist.: BLI 37-2008, f. 11-6-08, cert. ef. 11-10-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 15-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 2-2012, f. & cert. ef. 2-8-12; BLI 4-2013(Temp), f. 12-15-13, cert. ef. 12-16-13 thru 6-1-14; BLI 2-2014(Temp), f. 2-18-14, cert. ef. 2-19-14 thru 6-1-14; BLI 7-2014, f. & cert. ef. 5-30-14; BLI 2-2012, f. & cert. ef. 2-8-12; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0455**
**Employment Preference for Promotions**

A public employer will grant a preference to a person seeking promotion in the manner described at OAR 839-006-0450.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 408.225, 408.230, 408.235
Hist.: BLI 37-2008, f. 11-6-08, cert. ef. 11-10-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 15-2011, f. 12-30-11, cert. ef. 1-1-12; ; BLI 2-2012, f. & cert. ef. 2-8-12; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0470**
**Enforcement: Veterans' Preference**

The Civil Rights Division of the Bureau of Labor and Industries enforces the provisions of ORS 408.230. A person claiming a violation of ORS 408.230 may file a verified written complaint with the Civil Rights Division in accordance with ORS 659A.820.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 408.230, 408.235, 659A.820
Hist.: BLI 37-2008, f. 11-6-08, cert. ef. 11-10-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 15-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 2-2012, f. & cert. ef. 2-8-12; BLI 12-2015, f. & cert. ef. 8-28-15

**839-006-0480**
**Discrimination Based on Uniformed Service**

(1) For purposes of this rule:

(a) "Service" means the performance of duty on a voluntary or involuntary basis in a uniformed service that may involve active duty, active duty for training, initial active duty for training, inactive duty for training, full time duty in the National Guard, funeral honors duty or an examination to determine fitness for service in a uniformed service; and

(b) "Uniformed service" means the Armed Forces of the United States, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, the commissioned corps of the United States Public Health Service and any other category of persons designated by the President of the United States in a time of war or national emergency.

(2) It is an unlawful employment practice for an employer to discriminate against a person because of the person's service in a uniformed service by:

(a) Denying a public officer or public employee the status or rights provided by ORS 408.240 to 408.240 and 408.290, if the employer is a public body.

(b) Discharging, expelling, disciplining, threatening or otherwise retaliating against the person for exercising or attempting to exercise the status or rights provided by this section.

(c) Denying any of the following because a person is a member of, applies to be a member of, performs, has performed, applies to perform or has an obligation to perform service in a uniformed service:

(A) Initial employment;

(B) Reemployment following a leave from employment taken by reason of service in a uniformed service;

(C) Retention in employment;

(D) Promotion; or

(E) Any other term, condition or privilege of employment, including but not limited to compensation.

(3) An employer does not commit an unlawful employment practice under this rule if the employer acted based on a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business and the employer's actions could not be avoided by making a reasonable accommodation of the person's service in a uniformed service.

(4) The federal Uniformed Services Employment and Reemployment Act, 38 USC 43 (USERRA) provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. Federal Department of Labor regulation 20 CFR 1002.210 provides that in determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employer and those required by statute.

(5) To the extent possible, this rule shall be construed in a manner that is consistent with similar provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 USC 43.

(6) Protections for spouses and domestic partners of uniformed service members may be found under the Oregon Military Family Leave Act, ORS 659A.090 to 659A.099 and OAR 839-009-0370 - 839-009-0460.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.082
Hist.: BLI 8-2010, f. & cert. ef. 2-24-10; BLI 15-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 2-2012, f. & cert. ef. 2-8-12; BLI 12-2015, f. & cert. ef. 8-28-15

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**Rule Caption:** Amends the prevailing rates of wage for the period beginning October 1, 2015
**Adm. Order No.:** BLI 13-2015
**Filed with Sec. of State:** 9-3-2015
**Certified to be Effective:** 10-1-15
**Notice Publication Date:** 9-1-2015
**Rules Amended:** 839-025-0700
**Subject:** The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning October 1, 2015.
**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

**839-025-0700**
**Prevailing Wage Rate Determination/Amendments to Determination**

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled Prevailing Wage Rates on Public Works Contracts in Oregon dated July 1, 2015, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2015, and the effective dates of the applicable special wage determination and rates amendments: Amendments to Oregon Determination 2015-02 (effective October 1, 2015).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon dated July 1, 2015, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060
Stats. Implemented: ORS.279C.815
Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99: BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007,

f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09, BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef 1-19-10; BLI 4-2010, f. & cert. ef 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12; BLI 6-2012, f. & cert. ef. 7-2-12; BLI 10-2012, f. 9-26-12, cert. ef. 10-1-12; BLI 13-2012, f. 12-28-12, cert. ef. 1-1-13; BLI 1-2013, f. & cert. ef. 3-25-13; BLI 2-2013, f. & cert. ef. 9-20-13; BLI 3-2013, f. 9-30-13, cert. ef. 10-1-13; BLI 5-2013, f. 12-16-13, cert. ef. 1-1-14; BLI 3-2014, f. & cert. ef. 4-2-14; BLI 8-2014, f. 6-13-14, cert. ef. 7-1-14; BLI 11-2014, f. 9-24-14, cert. ef. 10-1-14; BLI 15-2014, f. 12-9-14, cert. ef. 1-1-15; BLI 3-2015, f. 3-13-15, cert. ef. 4-1-15; BLI 7-2015, f. 6-15-15, cert. ef. 7-1-15; BLI 13-2015, f. 9-3-15, 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:** Deletes references to debt management service provider counseling fee due to statutory sunset.
**Adm. Order No.:** FCS 6-2015
**Filed with Sec. of State:** 9-15-2015
**Certified to be Effective:** 9-15-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 441-910-0099
**Subject:** In 2009, the Legislature adopted House Bill 2191 to consolidate debt settlement, debt consolidation, credit counseling and credit repair activities under a single debt management service provider title. The Legislature adopted limits on the amount of fees that a debt management service provider could charge, including for counseling clients. HB 2191 contained a temporary, additional counseling fee that sunset on January 1, 2012. The department repealed OAR 441-910-0092 and amended OAR 441-910-0090 to reflect the provision's sunset. During that rulemaking the department inadvertently neglected to deletes references to OAR 441-910-0092 and amend the accompanying appendix A, which provided an example of allowable fees. Because the underlying authority for the fee included in the appendix is no longer allowed by law, and to remove obsolete references, DCBS is proposing to amend the appendix.
**Rules Coordinator:** Shelley Greiner—(503) 947-7484

**441-910-0099**
**Fee Schedules**
Appendix A is incorporated by reference for the purpose of illustrating the fee structure in ORS 697.692.
[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: 2009 OL Ch 604, § 21
Stats. Implemented: ORS 697.692
Hist.: FCS 13-2009, f. 12-18-09, cert. ef. 1-1-10; FCS 6-2015, f. & cert. ef. 9-15-15

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## Department of Consumer and Business Services, Insurance Division
## Chapter 836

**Rule Caption:** Amendments to Form A, Form B, Form C, and Form D.
**Adm. Order No.:** ID 6-2015(Temp)
**Filed with Sec. of State:** 9-2-2015
**Certified to be Effective:** 9-2-15 thru 2-26-16
**Notice Publication Date:**
**Rules Amended:** 836-027-0010, 836-027-0012, 836-027-0100, 836-027-0160
**Subject:** These rules make changes to forms included as exhibits to the rules. The changes are necessary to reflect statutory changes made in 2013 related to enterprise risk reporting. The forms must be updated immediately to allow insurers to submit requisite documents on the correct forms. Failure to update the forms immediately will result in harm to consumers and insurers because filings will be in error resulting in delay of company transactions.
**Rules Coordinator:** Jenny Craig—(503) 947-7484

**836-027-0010**
**Registration of Insurers — Statement Filing**
An insurer required to file an annual registration statement pursuant to ORS 732.517 to 732.592 shall:
(1) Furnish the required information on Form B, which is incorporated in and made a part of this rule as Exhibit 2.
(2) Include a statement that the insurer's board of directors oversees corporate governance and internal controls.
[ED. NOTE: Exhibit 2, Form B, referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]
[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 732.572
Stats. Implemented: ORS 732.517 - 732.592
Hist.: IC 68, f. & ef. 6-22-76; ID 8-1993, f. & cert. ef. 9-23-93; ID 13-1993, f. & cert. ef. 12-1-93; ID 15-1996, f. & cert. ef. 11-12-96; ID 7-2013, f. 12-26-13, cert. ef. 1-1-14; ID 1-2014, f. & cert. ef. 1-8-14; ID 6-2015(Temp), f. & cert. ef. 9-2-15 thru 2-26-16

**836-027-0012**
**Summary of Registration — Statement Filing.**
An insurer required to file an annual registration statement pursuant to ORS 732.517 to 732.592 is also required to furnish information required on Form C, which is incorporated in and made a part of this rule as **Exhibit 3**. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the Insurance Commissioner of that state.
[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 732.572
Stats. Implemented: ORS 732.517 - 732.592
Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 15-1996, f. & cert. ef. 11-12-96; ID 6-2015(Temp), f. & cert. ef. 9-2-15 thru 2-26-16

**836-027-0100**
**Acquisition of Control — Statement Filing**
A person required to file a statement pursuant to ORS 732.517 to 732.592 shall furnish the required information on Form A, which is incorporated in and made a part of this rule as **Exhibit 1**. The person also shall furnish the required information on Form E, which is incorporated in and made a part of this rule as **Exhibit 5** and described in OAR 836-027-0125.
[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 732.705
Stats. Implemented: ORS 732.517 - 732.592
Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 15-1996, f. & cert. ef. 11-12-96; ID 7-2013, f. 12-26-13, cert. ef. 1-1-14; ID 1-2014, f. & cert. ef. 1-8-14; ID 15-1996, f. & cert. ef. 11-12-96; ID 6-2015(Temp), f. & cert. ef. 9-2-15 thru 2-26-16

**836-027-0160**
**Transactions Subject to Prior Notice — Notice Filing**
An insurer required to give notice of a proposed transaction pursuant to ORS 732.574 shall furnish the required information on Form D, which is incorporated in and made a part of this rule as **Exhibit 4**.
[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 732.572
Stats. Implemented: ORS 732.517 - 732.592
Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 15-1996, f. & cert. ef. 11-12-96; ID 6-2015(Temp), f. & cert. ef. 9-2-15 thru 2-26-16

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**Rule Caption:** Election of Lower Limits for Uninsured Motorist Coverage
**Adm. Order No.:** ID 7-2015(Temp)
**Filed with Sec. of State:** 9-14-2015
**Certified to be Effective:** 9-14-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 836-054-0000
**Subject:** OAR 836-054-0000(2) currently incorporates by references a specific exhibit that does not correctly explain the law that will apply to automobile policies that will be issued or renewed after January 1, 2016. The changes to the rule remove the reference to a specific exhibit and direct the reader to the website for a sample form that has been approved by the Insurance Division of the Department of Consumer and Business Services. The language for the amended

rule is consistent with the statutory language of ORS 742.502(2)(b). The changes to the rule will allow the Insurance Division to respond more quickly to changes required to the form by eliminating the need to conduct rulemaking to change the form.

**Rules Coordinator:** Jenny Craig—(503) 947-7484

**836-054-0000**

**Election of Lower Limits for Uninsured Motorist Coverage**

(1) This rule is adopted under the authority of ORS 731.244 for the purpose of implementing ORS 742.502.

(2) An example of a form that may be used by an insurer or insurance producer to comply with this rule is posted on the Insurance Division website of the Department of Consumer and Business Services at www.insurance.oregon.gov. If an insurer or insurance producer uses this form, or any other selection form that has been approved by the Department, the form is considered to be approved by the Department. Any other form electing lower limits for uninsured motorist coverage in a motor vehicle liability insurance policy must be approved by the Department and must contain all of the following elements in any order:

(a) An acknowledgement by the named insured that the named insured was offered uninsured motorist coverage with the limits equal to those for bodily injury liability;

(b) A brief summary, which is not part of the insurance contract, of uninsured and underinsured motorist coverages;

(c) A statement of the price for coverage per insured vehicle with limits equal to the named insured's bodily injury liability limits and the price for coverage per insured vehicle with the lower limits requested by the named insured;

(d) A statement to the effect that the statement shall remain in force until rescinded in writing by a named insured or until such time as motor vehicle bodily injury liability limits are changed; and

(e) Provision for signature of a named insured, to be made within 60 days of the time the named insured makes the election, and for the date of signature.

(3) Regarding the summary required in subsection (2)(b) of this rule, if an insurer issuing a policy that refers only to uninsured motorist coverage because uninsured motorist coverage under the policy includes underinsured motorist coverage meeting statutory requirements, the insurer need not use the term "underinsured motorist coverage."

(4) The statement required under subsection (2)(c) of this rule may state the term of coverage to which the prices relate.

(5) The form may include one or both of the following statements in addition to the items required under section (2) of this rule:

(a) A statement to the effect that the form is required by Oregon law or specifically by ORS 742.502; and

(b) A statement to the effect that limits for uninsured motorist coverage cannot be less than the amounts required to comply with financial responsibility requirements under ORS 806.070.

Stat. Auth.: ORS 731.244 & 742.502
Stats. Implemented: ORS 742.502(2)
Hist.: ID 5-1994, f. & cert. ef. 5-9-94; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 19-2006, f. & cert. ef. 9-26-06; ID 7-2015(Temp), f. & cert. ef. 9-14-15 thru 12-31-15

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**Rule Caption:** Implementing Requirements of House Bill 2758 Related to Oregon Confidential Communications Request Form

**Adm. Order No.:** ID 8-2015(Temp)

**Filed with Sec. of State:** 9-15-2015

**Certified to be Effective:** 9-15-15 thru 3-4-16

**Notice Publication Date:**

**Rules Adopted:** 836-053-0600, 836-053-0605, 836-053-0610, 836-053-0615

**Subject:** These rules implement the provisions of House Bill 2758 (2015 Legislative Session). The rules set forth the requirements imposed on carriers and third party administrators related to the use of the uniform "Oregon Confidential Communication Request Form" developed as specified in the legislation. The rules also set forth carrier reporting requirements related to confidential communication requests and the use of the new form.

Temporary rules are necessary to provide direction to interested stakeholders as soon as the form becomes available to the public. The legislation specifies the form must be available not later than 90 days after the effective date of the legislation, September 16, 2015. The temporary rules are also critical to provide notice to carriers and third party administrators of the baseline reporting requirements of information first reportable not later than December 1, 2015.

**Rules Coordinator:** Jenny Craig—(503) 947-7484

**836-053-0600**

**Purpose; Statutory Authority; Applicability**

(1) OAR 836-053-0600 to 836-053-0615 are adopted for the purpose of implementing sections 2, 3 and 12, chapter 470, Oregon Laws 2015.

(2) The requirements set forth in OAR 836-053-0600 to 836-053-0615 apply to carriers and third party administrators for health benefit plans issued or renewed on or after January 1, 2016.

Stat. Auth: ORS 731.244 & OL 2015, Sections 2 & 3
Stats. Implemented: Ch 470, OL 2015 Sections 2, 3 & 12
Hist.: ID 8-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

**836-053-0605**

**Definitions for OAR 836-053-0600 to 836-053-0615**

As used in OAR 836-053-0600 to 836-053-0615:

(1) The definitions set forth in Section 2, chapter 470; Oregon Laws 2015 apply to the use of those terms in these rules.

(2) "Enrollee" includes a person covered under a health benefit plan and a dependent of a person covered under a health benefit plan.

Stat. Auth: ORS 731.244 & OL 2015, Sections 2 & 3
Stats. Implemented: Ch 470, OL 2015 Sections 2, 3 & 12
Hist.: ID 8-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

**836-053-0610**

**Carrier Response to Request for Confidentiality**

(1) A carrier or third party administrator must do all of the following:

(a) Allow enrollees to submit the standardized form entitled "Oregon Confidential Communication Request" set forth on the Insurance Division website of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(b) Acknowledge receipt of the enrollee's form and respond to an enrollee's confidential communications request.

(c) Include with the acknowledgement any information the enrollee needs about the effect of the request and the process for changing the status of the request.

(2) A carrier or third party administrator must communicate with providers about the protections afforded to enrollees under chapter 470, Oregon Laws 2015 and at a minimum provide information about how to access the "Oregon Confidential Communication Request Form." A carrier or third party administrator is not limited to providing information about the form.

Stat. Auth: ORS 731.244 & OL 2015, Sections 2 & 3
Stats. Implemented: Ch 470, OL 2015 Sections 2, 3 & 12
Hist.: ID 8-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

**836-053-0615**

**Carrier Reporting Requirements**

(1) In order to comply with the requirements of section 3, chapter 470, Oregon Laws 2015, not later than December 1, 2015, carriers and third party administrators shall submit the following to the Department of Consumer and Business Services:

(a) Information about internal and external education and outreach activities that the carrier or third party administrator will conduct to inform Oregonians about their right to have protected health information redirected. The information reported shall include mechanisms the carrier or third party administrator proposes to use to assess the effectiveness of the education and outreach activities.

(b) Baseline data for the period of October 1, 2014 through September 30, 2015 that explains:

(A) The total number of requests to redirect confidential information received by the carrier or third party administrator and of these, the number of requests to redirect confidential information that are received via:

(i) Telephone;

(ii) Email; and

(iii) Hard copy.

(B) The timeliness of processing the redirection requests segregated by method of request.

(C) The number of complaints and grievances received related to confidential communications. This number must also include the applicable grievances tracked in accordance with OAR 836-053-1080.

(D) Total number of enrolled members.

(E) Total number of policyholders or certificate holders.

(F) Total number of dependent members.

(2) Not later than September 1, 2016, carriers and third party administrators shall submit to the department the following data for the period of January 1, 2016 through June 30, 2016:

(a)(A) The total number of requests to redirect confidential information received by the carrier or third party administrator and of these, the number of requests to redirect confidential information that are received via:

(i) Telephone;

(ii) Email;

(iii) Hard copy.

(B) The timeliness of processing the redirection requests segregated by method of request.

(C) The number of complaints and grievances received related to confidential communications.

(D) Total number of enrolled members.

(E) Total number of policyholders or certificate holders.

(F) Total number of dependent members.

(b) The following information to assist the department in determining the extent and effectiveness of the education and outreach activities conducted by the carrier or third party administrator:

(A) Explanation of how and when the process was presented to members; and

(B) Copies of outreach and education materials used over the period of January 1, 2016 through June 30, 2016.

Stat. Auth: ORS 731.244 & OL 2015, Sections 2 & 3
Stats. Implemented: Ch 470, OL 2015 Sections 2, 3 & 12
Hist.: ID 8-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

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**Rule Caption:** Limited License of Vehicle Rental Company as Limited License for Designated Agent of Rental Company
**Adm. Order No.:** ID 9-2015(Temp)
**Filed with Sec. of State:** 9-15-2015
**Certified to be Effective:** 9-15-15 thru 3-4-16
**Notice Publication Date:**
**Rules Amended:** 836-071-0355, 836-071-0370, 836-071-0380
**Subject:** 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. House Bill 2958 now allows a rental company to allow 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 it provides for employees. The rules must be amended to add "designated agents" to the description of the individuals who must be educated and monitored to sell rental insurance under the limited license of the rental company.

The provisions of HB 2958 take effect on September 22, 2015, so these rules must be amended by that date.
**Rules Coordinator:** Jenny Craig—(503) 947-7484

**836-071-0355**
**Limited License Application, Rental Companies; Required Information**

(1) On and after October 1, 2000, a rental company must hold a limited license in order to transact insurance as authorized by ORS 744.854. An applicant for a limited license as a rental company as authorized by 744.854 shall apply for a limited license to the Director of the Department of Consumer and Business Services electronically on a form established by the Director in accordance with directions set forth on the Insurance Division website of the Department of Consumer and Business Services at www.insurance.oregon.gov. The applicant shall include the following information in the application:

(a) The applicant's corporate, firm or other business entity name, the business address and telephone number of the principal place of business and the business address and telephone number of each additional location at which the applicant will transact business under the license;

(b) All assumed business names and other names under which the applicant will engage in business under the license;

(c) The names of all officers and directors or partners, or the sole proprietor or the owners if the applicant is other than a corporation or a partnership, and the name of the executive designated as the statewide filing officer as required by ORS 744.856;

(d) Whether any of the following has occurred with respect to an officer or director of the applicant, or a partner, or the sole proprietor or any of the owners if the applicant is other than a corporation or a partnership:

(A) Conviction of or indictment for a crime, including a felony involving dishonesty or a breach of trust to which 18 U.S.C. sec. 1033 applies;

(B) A judgment entered against the officer, director, partner, sole proprietor or owner if the applicant is other than a corporation or a partnership, for fraud;

(C) A claim of indebtedness by an insurer or agent, and the details of any such indebtedness; or

(D) Refusal, revocation or suspension of any license to act in any occupational or professional capacity in this or any other state;

(e) All states and provinces of Canada in which the applicant or an officer, director or partner of the applicant, or a sole proprietor or owner if the applicant is other than a corporation or a partnership, currently holds a license to engage in the transaction of insurance, or has held such a license within ten years prior to the date of the application;

(f) Whether any firm or corporation of which an officer, director or partner of the applicant, or the sole proprietor or an owner if the applicant is other than a corporation or a partnership, is or has been an officer, director, partner, sole proprietor or owner has ever filed for bankruptcy or been adjudged a bankrupt; and

(g) Any other information requested by the Director in the license application form.

(2) The applicant shall include with the application the following:

(a) The course of study to be used by the applicant for the training program for employees and designated agents concerning the kinds of coverage offered under the license;

(b) A certification by the applicant that all employees and designated agents to be involved in the sale or offer of coverage to members of the public have completed or will complete the training program prior to conducting the sales or offers; and

(c) A certification by the applicant that all employees and designated agents to be involved in the sale or offer of coverage to members of the public will receive continuing education on a regular basis concerning the topics covered in the training program.

(d) A copy of the insurance sales material to be made available to renters of vehicles through the licensee.

(3) Each application shall be accompanied by a $200 fee.

(4) During the review of an application, the Director may require any other information that the Director determines will assist consideration of the application.

Stat. Auth.: ORS 731.244, 731.804, 744.852 & 744.858
Stats. Implemented: ORS 731.804, 744.852, 744.856 & 744.858
Hist.: ID 8-2000, f. & cert. ef. 7-24-00; ID 12-2012(Temp), f. 6-19-12, cert. ef. 8-1-12 thru 1-25-12; ID 18-2012, f. & cert. ef. 11-7-12; ID 9-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

**836-071-0370**
**List of Employees and Designated Agents Selling Coverage; Continuing Education**

(1) A limited licensee shall maintain at all times a current list of all employees and designated agents who are authorized by the limited licensee to offer and sell the insurance coverage for the limited licensee. The limited licensee must provide the list to the Director upon request and the list must otherwise be available and accessible to the Director at all reasonable hours at the principal place of business of the licensee in this state.

(2) For the purpose of complying with the education filing and certification requirements of ORS 744.856, not later than March 1 of each year, a limited licensee shall:

(a) File the syllabus for the training program with the Director; and

(b) Certify to the Director that all employees and designated agents involved in the sale or offer of coverage to members of the public have completed or will complete the training program prior to conducting such sales or offers and will receive continuing education on a regular basis concerning the topics covered in the training program.

(3) For the purpose of the requirement in ORS 744.856 that employees and designated agents of a limited licensee shall receive continuing education on a regular basis, a "regular basis" is at least once every 12 months.

Stat. Auth.: ORS 744.852 & 744.858
Stats. Implemented: ORS 744.856
Hist.: ID 8-2000, f. & cert. ef. 7-24-00; ID 9-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

**836-071-0380**
**Course of Training for Training Program and for Continuing Education**

A limited licensee must include at least the following information in the training program for new employees and designated agents who will be offering the insurance coverage and in the continuing education program for current employees and designated agents offering the insurance coverage, as required by ORS 744.856:

(1) Materials for the purpose of facilitating employee and designated agents understanding of the insurance coverages offered by the licensee.

(2) That renters of vehicles through the licensee are not required to purchase the coverage offered through the licensee as a condition of renting a vehicle.

(3) That renters must be informed that coverage offered by the licensee may duplicate existing coverage of the renter and that the renter should consult with the renter's insurance agent if the renter has any question about existing coverage.

(4) Claims procedures.

(5) The identity of the insurer of the coverage offered by the licensee.

(6) That employees and designated agents of the licensee are not authorized to evaluate a renter's existing coverages.

Stat. Auth.: ORS 744.856 & 744.858
Stats. Implemented: ORS 744.856
Hist.: ID 8-2000, f. & cert. ef. 7-24-00; ID 9-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16

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

**Rule Caption:** Medical services in workers' compensation claims
**Adm. Order No.:** WCD 5-2015
**Filed with Sec. of State:** 8-20-2015
**Certified to be Effective:** 10-1-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 436-010-0241
**Rules Amended:** 436-010-0001, 436-010-0005, 436-010-0008, 436-010-0200, 436-010-0210, 436-010-0220, 436-010-0230, 436-010-0240, 436-010-0250, 436-010-0265, 436-010-0270, 436-010-0280, 436-010-0290, 436-010-0300, 436-010-0330, 436-010-0340
**Rules Repealed:** 436-010-0002, 436-010-0003, 436-010-0006, 436-010-0275
**Rules Ren. & Amend:** 436-010-0260 to 436-010-0335
**Subject:** The agency has amended OAR 436-010 to:

Substantially revise and reorganize division 010, including deleting obsolete and otherwise unnecessary wording;

Clarify that, for disputes under ORS 656.260 or 656.327, the dispute record packet must include certification whether there is or is not an issue of compensability of the underlying claim or condition.

Move some regulations to division 009 for separate public review and hearing, and move some regulations from division 009 to division 010, so that regulations relevant to the medical fee schedule and medical services are located with related rules;

Add definitions of "come-along" provider, "date stamp," and "patient," and delete definitions of terms not used in division 010;

Limit denial of reimbursement based on late submission of a treatment plan by an ancillary service provider to those services provided before the treatment plan is sent;

Require that the insurer respond to the provider's request in writing whether the service is pre-authorized or not pre-authorized within 14 days of receipt of the request; and

Encourage providers to adhere to the new opioid guidelines approved by the Medical Advisory Committee.

**Rules Coordinator:** Fred Bruyns—(503) 947-7717

**436-010-0001**
**Administration of These Rules**

(1) Any orders issued by the division in carrying out the director's authority to enforce ORS chapter 656 and OAR chapter 436, are considered orders of the director.

(2) Authority for Rules. These rules are promulgated under the director's general rulemaking authority of ORS 656.726(4) for administration of and pursuant to ORS Chapter 656, particularly: 656.245, 656.248, 656.250, 656.252, 656.254, 656.256, 656.260, 656.268, 656.273, 656.313, 656.325, 656.327, 656.331, 656.704, and 656.794.

(3) Purpose. The purpose of these rules is to establish uniform guidelines for administering the delivery of and payment for medical services to workers within the workers' compensation system.

(4) Applicability of Rules.

(a) These rules apply on or after the effective date to carry out the provisions of ORS 656.245, 656.247, 656.248, 656.250, 656.252, 656.254, 656.256, 656.260, 656.268, 656.313, 656.325, 656.327, 656.331, 656.704, and 656.794, and govern all providers of medical services licensed or authorized to provide a product or service under ORS Chapter 656.

(b) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248, 656.250, 656.252, 656.254, 656.256, 656.260, 656.268, 656.273, 656.313, 656.325, 656.327, 656.331, 656.704, 656.794
Hist.: WCB 1-1972, f. & ef. 1-14-72; WCB 4-1976, f. 10-20-76, ef. 11-1-76; WCD 7-1978(Admin), f. & ef. 6-5-78; WCD 2-1980(Admin), f. 1-28-80, ef. 2-1-80; WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0003, 5-1-85; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0005**
**Definitions**

(1) Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 are hereby incorporated by reference and made part of these rules.

(2) "Administrative review" means any decision making process of the director requested by a party aggrieved with an action taken under these rules except the hearing process described in OAR 436-001.

(3) "Attending physician" has the same meaning as described in ORS 656.005(12)(b). See Appendix A "Matrix for Health Care Provider Types."

(4) "Authorized nurse practitioner" means a nurse practitioner licensed under ORS 678.375 to 678.390 who has certified to the director that the nurse practitioner has reviewed informational materials about the workers' compensation system provided by the director and who has been assigned an authorized nurse practitioner number by the director.

(5) "Board" means the Workers' Compensation Board and includes its Hearings Division.

(6) "Chart note" means a notation made in chronological order in a medical record in which the medical service provider records information such as subjective and objective findings, diagnosis, treatment rendered, treatment objectives, and return-to-work goals and status.

(7) "Come-along provider" means a primary care physician, chiropractic physician, or an authorized nurse practitioner who is not a managed care organization (MCO) panel provider and who continues to treat the worker when the worker becomes enrolled in an MCO. (See OAR 436-015-0070.)

(8) "Date stamp" means to stamp or display the initial receipt date and the recipient's name on a paper or electronic document, regardless of whether the document is printed or displayed electronically.

(9) "Days" means calendar days.

(10) "Direct control and supervision" means the physician is on the same premises, at the same time, as the person providing a medical service ordered by the physician. The physician can modify, terminate, extend, or take over the medical service at any time.

(11) "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."

(12) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(13) "Eligible worker" means a worker who has filed a claim or who has an accepted claim and whose employer is located in an MCO's authorized geographical service area, covered by an insurer that has a contract with that MCO.

(14) "Enrolled" means an eligible worker has received notification from the insurer that the worker is being required to treat under the provisions of a managed care organization (MCO). However, a worker may not be enrolled who would otherwise be subject to an MCO contract if the worker's primary residence is more than 100 miles outside the managed care organization's certified geographical service area.

(15) "Health care practitioner or health care provider" has the same meaning as a "medical service provider."

(16) "Hearings Division" means the Hearings Division of the Workers' Compensation Board.

(17) "Home health care" means necessary medical and medically related services provided in the patient's home environment. These services may include, but are not limited to, nursing care, medication administration, personal hygiene, or assistance with mobility and transportation.

(18) "Hospital" means an institution licensed by the State of Oregon as a hospital.

(19) "Initial claim" means the first open period on the claim immediately following the original filing of the occupational injury or disease claim until the worker is first declared to be medically stationary by an attending physician or authorized nurse practitioner. For nondisabling claims, the "initial claim" means the first period of medical treatment immediately following the original filing of the occupational injury or disease claim ending when the attending physician or authorized nurse practitioner does not anticipate further improvement or need for medical treatment, or there is an absence of treatment for an extended period.

(20) "Insurer" means the State Accident Insurance Fund Corporation; an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in the state; or, an employer or employer group that has been certified under ORS 656.430 that meets the qualifications of a self-insured employer under ORS 656.407.

(21) "Interim medical benefits" means those services provided under ORS 656.247 on initial claims with dates of injury on or after January 1, 2002 that are not denied within 14 days of the employer's notice of the claim.

(22) "Mailed or mailing date" means the date a document is postmarked. Requests submitted by facsimile or "fax" are 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 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.

(23) "Managed care organization" or "MCO" means an organization formed to provide medical services and certified in accordance with OAR chapter 436, division 015.

(24) "Medical evidence" includes, but is not limited to: expert written testimony; written statements; written opinions, sworn affidavits, and testimony of medical professionals; records, reports, documents, laboratory, X-ray and test results authored, produced, generated, or verified by medical professionals; and medical research and reference material used, produced, or verified by medical professionals who are physicians or medical record reviewers in the particular case under consideration.

(25) "Medical provider" means a medical service provider, a hospital, a medical clinic, or a vendor of medical services.

(26) "Medical service" means any medical treatment or any medical, surgical, diagnostic, chiropractic, dental, hospital, nursing, ambulances, or other related services; drugs, medicine, crutches, prosthetic appliances, braces, and supports; and where necessary, physical restorative services.

(27) "Medical service provider" means a person duly licensed to practice one or more of the healing arts.

(28) "Medical treatment" means the management and care of a patient for the purpose of combating disease, injury, or disorder. Restrictions on activities are not considered treatment unless the primary purpose of the restrictions is to improve the worker's condition through conservative care.

(29) "Parties" mean the worker, insurer, MCO, attending physician, and other medical provider, unless a specific limitation or exception is expressly provided for in the statute.

(30) "Patient" means the same as worker as defined in ORS 656.005(30).

(31) "Physical capacity evaluation" means an objective, directly observed, measurement of a worker's ability to perform a variety of physical tasks combined with subjective analyses of abilities by worker and evaluator. Physical tolerance screening, Blankenship's Functional Capacity Evaluation, and Functional Capacity Assessment have the same meaning as Physical Capacity Evaluation.

(32) "Physical restorative services" means those services prescribed by the attending physician or authorized nurse practitioner to address permanent loss of physical function due to hemiplegia or a spinal cord injury, or to address residuals of a severe head injury. Services are designed to restore and maintain the patient's highest functional ability consistent with the patient's condition.

(33) "Report" means medical information transmitted in written form containing relevant subjective or objective findings. Reports may take the form of brief or complete narrative reports, a treatment plan, a closing examination report, or any forms as prescribed by the director.

(34) "Residual functional capacity" means a patient's remaining ability to perform work-related activities. A residual functional capacity evaluation includes, but is not limited to, capability for lifting, carrying, pushing, pulling, standing, walking, sitting, climbing, balancing, bending/stooping, twisting, kneeling, crouching, crawling, and reaching, and the number of hours per day the patient can perform each activity.

(35) "Specialist physician" means a licensed physician who qualifies as an attending physician and who examines a patient at the request of the attending physician or authorized nurse practitioner to aid in evaluation of disability, diagnosis, or provide temporary specialized treatment. A specialist physician may provide specialized treatment for the compensable injury or illness and give advice or an opinion regarding the treatment being rendered, or considered, for a patient's compensable injury.

(36) "Work capacity evaluation" means a physical capacity evaluation with special emphasis on the ability to perform a variety of vocationally oriented tasks based on specific job demands. Work Tolerance Screening has the same meaning as Work Capacity Evaluation.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.000 et seq. & 656.005

Hist.: WCB 4-1976, f. 10-20-76, ef. 11-1-76; WCD 7-1978(Admin), f. & ef. 6-5-78; WCD 2-1980(Admin), f. 1-28-80, ef. 2-1-80; WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0005, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 4-1986(Admin), f. 6-26-86, ef. 7-1-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 14-1990(Temp), f. & cert. ef. 7-20-90; WCD 16-1990(Temp), f. & cert. ef. 8-17-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 7-2013, f. 11-12-13, cert. ef. 1-1-14; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0008**
**Request for Review before the Director**

(1) General.

(a) Administrative review before the director:

(A) Except as otherwise provided in ORS 656.704, the director has exclusive jurisdiction to resolve all disputes concerning medical fees, nonpayment of compensable medical bills, and medical service and treatment disputes arising under ORS 656.245, 656.247, 656.248, 656.260, 656.325, and 656.327. Disputes about whether a medical service provided after a worker is medically stationary is compensable within the meaning of ORS 656.245(1)(c), or whether a medical treatment is unscientific, unproven, outmoded, or experimental under ORS 656.245(3), are subject to administrative review before the director.

(B) A party does not need to be represented to participate in the administrative review before the director.

(C) Any party may request that the director provide voluntary mediation or alternative dispute resolution after a request for administrative review or hearing is filed.

(b) All issues pertaining to disagreements about medical services within a managed care organization (MCO), including disputes under ORS 656.245(4)(a) about whether a change of provider will be medically detrimental to the worker, are subject to ORS 656.260. A party dissatisfied with an action or decision of the MCO must first apply for and complete the internal dispute resolution process within the MCO before requesting an administrative review of the matter before the director.

(c) Except for disputes regarding interim medical benefits under ORS 656.247, when there is a formal denial of the compensability of the underlying claim, or a denial of the causal relationship between the medical service or treatment and the accepted condition or the underlying condition, the parties may file a request for hearing with the Hearings Division of the Workers' Compensation Board to resolve the compensability issue.

(d) The director may, on the director's own motion, initiate a review of medical services or medical treatment at any time.

(e) If the director issues an order declaring an already rendered medical treatment or medical service inappropriate, or otherwise in violation of the statute or medical rules, the worker is not obligated to pay for such.

(2) Time Frames and Conditions.

(a) The following time frames and conditions apply to requests for administrative review before the director under this rule:

(A) For MCO-enrolled claims, a party that disagrees with an action or decision of the MCO must first use the MCO's dispute resolution process. If the party does not appeal the MCO's decision using the MCO's dispute resolution process, in writing and within 30 days of the mailing date of the decision, the party will lose all rights to further appeal the decision unless the party can show good cause. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation to the insurer, the 30-day time frame begins when the attorney receives written notice or has actual knowledge of the MCO decision.

(B) For MCO-enrolled claims, if a party disagrees with the final action or decision of the MCO, the aggrieved party must request administrative review before the director within 60 days of the MCO's final decision. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation to the insurer, the 60-day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. If a party has been denied access to the MCO dispute resolution process, or the process has not been completed for reasons beyond a party's control, the party may request director review within 60 days of the failure of the MCO process. If the MCO does not have a process for resolving a particular type of dispute, the insurer or the MCO must advise the medical provider or worker that they may request review before the director.

(C) For claims not enrolled in an MCO, or for disputes that do not involve an action or decision of an MCO, the aggrieved party must request administrative review before the director within 90 days of the date the party knew, or should have known, there was a dispute. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation to the insurer, the 90-day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. For purposes of this rule, the date the insurer should have known of the dispute is the date action on the bill was due. For disputes regarding interim medical benefits on denied claims, the date the insurer should have known of the dispute is no later than one year from the claim denial, or 45 days after the bill is perfected, whichever occurs last. A request for administrative review under this rule may also be filed as prescribed in OAR chapter 438, division 005.

(b) Medical provider bills for treatment or services that are under review before the director are not payable during the review.

(3) Form and Required Information.

(a) Requests for administrative review before the director should be made on Form 2842 as described in Bulletin 293. When an insurer or a worker's representative submits a request without the required information, the director may dismiss the request or hold initiation of the administrative review until the required information is submitted. Unrepresented workers may ask the director for help in meeting the filing requirements. The requesting party must simultaneously notify all other interested parties and their representatives, if known, of the dispute. The notice must:

(A) Identify the worker's name, date of injury, insurer, and claim number;

(B) Specify the issues in dispute and the relief sought; and

(C) Provide the specific dates of the unpaid disputed treatment or services.

(b) In addition to medical evidence relating to the dispute, all parties may submit other relevant information, including written factual information, sworn affidavits, or legal argument, for incorporation into the record. Such information may also include timely written responses and other evidence to rebut the documentation and arguments of an opposing party. The director may take or obtain additional evidence consistent with statute, such as pertinent medical treatment and payment records. The director may also interview parties to the dispute, or consult with an appropriate committee of the medical provider's peers. When a party receives a written request for additional information from the director, the party must respond within 14 days.

(c) When a request for administrative review is filed under ORS 656.247, 656.260, or 656.327(3)(c), the insurer must provide a record packet, at no charge, to the director and all other parties or their representatives as follows:

(A) The packet must include a complete, indexed copy of the worker's medical record and other documents that are arguably related to the medical dispute, arranged in chronological order, with oldest documents on top, and numbered in Arabic numerals in the lower right corner of each page. The number must be preceded by the designation "Ex." and pagination of the multiple page documents must be designated by a hyphen followed by the page number. For example, page two of document 10 must be designated "Ex. 10-2." The index must include the document numbers, description of each document, author, number of pages, and date of the document. The packet must include the following notice in bold type:

We hereby notify you that the director is being asked to review the medical care of this worker. The director may issue an order that could affect reimbursement for the disputed medical service(s).

(B) If the insurer requests review, the packet must accompany the request, with copies sent simultaneously to the other parties.

(C) If the requesting party is not the insurer, or if the director has initiated the review, the director will request the record from the insurer. The insurer must provide the record within 14 days of the director's request as described in this rule.

(D) If the insurer fails to submit the record in the time and format specified in this rule, the director may sanction the insurer under OAR 436-010-0340.

(E) Except for disputes regarding interim medical benefits, the packet must include certification stating that there is an issue of compensability of the underlying claim or condition or stating that there is not an issue of compensability of the underlying claim or condition. If the insurer issued a denial that has been reversed by the Hearings Division, the Board, or the Court of Appeals, the insurer must provide a statement regarding its intention, if known, to accept or appeal the decision.

(4) Physician Review (E.g., appropriateness). If the director determines a review by a physician is indicated to resolve the dispute, the director, under OAR 436-010-0330, may appoint an appropriate medical service provider or panel of providers to review the medical records and, if necessary, examine the worker and perform any necessary and reasonable medical tests, other than invasive tests. Notwithstanding ORS 656.325(1), if the worker is required by the director to submit to a medical exam as part of the administrative review process, the worker may refuse an invasive test without sanction.

(a) A single physician selected to conduct a review must be a practitioner of the same healing art and specialty, if practicable, of the medical service provider whose treatment or service is being reviewed.

(b) When a panel of physicians is selected, at least one panel member must be a practitioner of the same healing art and specialty, if practicable, of the medical service provider whose treatment or service is being reviewed.

(c) When such an exam of the worker is required, the director will notify the appropriate parties of the date, time, and location of the exam. Examinations will be at a place reasonably convenient to the worker, if possible. The parties must not directly contact the physician or panel unless it relates to the exam date, time, location, or attendance. If the parties have special questions they want addressed by the physician or panel, the questions must be submitted to the director for screening as to the appropriateness of the questions. Matters not related to the issues before the director are inappropriate for medical review and will not be submitted to the reviewing physician(s). The exam may include, but is not limited to:

(A) A review of all medical records and diagnostic tests submitted,

(B) An examination of the worker, and

(C) Any necessary and reasonable medical tests.

(5) Dispute Resolution by Agreement (E.g., Alternative Dispute Resolution).

(a) A dispute may be resolved by agreement between the parties to the dispute. The agreement must be in writing and approved by the director. The director may issue a letter of agreement instead of an administrative order, which will become final on the 10th day after the letter of agreement is issued unless the agreement specifies otherwise. Once the agreement becomes final, the director may revise the agreement or reinstate the review only under one or more of the following conditions:

(A) A party fails to honor the agreement;

(B) The agreement was based on misrepresentation;

(C) Implementation of the agreement is not feasible because of unforeseen circumstances; or

(D) All parties request revision or reinstatement of the dispute.

(b) Any mediated agreement may include an agreement on attorney fees, if any, to be paid to the worker's attorney.

(c) If the dispute does not resolve through mediation or alternative dispute resolution, the director will issue an order. If the dispute is not resolved by agreement and if the director determines that no bona fide dispute exists in a claim not enrolled in an MCO, the director will issue an order under ORS 656.327(1). If any party disagrees with an order of the director that no bona fide medical dispute exists, the party may appeal the order to the Workers' Compensation Board within 30 days of the mailing date of the order. Upon review, the order of the director may be modified

only if it is not supported by substantial evidence in the record developed by the director.

(6) Director Order and Reconsideration.

(a) The director may, on the director's own motion, reconsider or withdraw any order that has not become final by operation of law. A party also may request reconsideration of an administrative order upon an allegation of error, omission, misapplication of law, incomplete record, or the discovery of new information that could not reasonably have been discovered and produced during the review. The director may grant or deny a request for reconsideration at the director's sole discretion. A request must be mailed to the director before the administrative order becomes final.

(b) During any reconsideration of the administrative order, the parties may submit new material evidence consistent with this rule and may respond to such evidence submitted by others.

(c) Any party requesting reconsideration or responding to a reconsideration request must simultaneously notify all other interested parties of its contentions and provide them with copies of all additional information presented.

(d) Attorney fees in administrative review will be awarded as provided in ORS 656.385(1) and OAR 436-001-0400 through 436-001-0440.

(7) Hearings.

(a) Any party that disagrees with an action or administrative order under these rules may obtain review of the action or order by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the action or order under ORS 656.245, 656.248, 656.260, or 656.327, or within 60 days of the mailing date of an action or order under ORS 656.247. OAR 436-001 applies to the hearing.

(b) In the review of orders issued under ORS 656.245, 656.247, 656.260(15) or (16), or 656.327(2), no new medical evidence or issues will be admitted at hearing. In these reviews, an administrative order may be modified at hearing only if it is not supported by substantial evidence in the record or if it reflects an error of law.

(c) Contested case hearings of sanctions and civil penalties: Under ORS 656.740, any party that disagrees with a proposed order or proposed assessment of a civil penalty issued by the director under ORS 656.254 or 656.745 may request a hearing by the Hearings Division of the Workers' Compensation Board as follows:

(A) A written request for a hearing must be mailed to the administrator of the Workers' Compensation Division. The request must specify the grounds upon which the proposed order or assessment is contested.

(B) The request must be mailed to the administrator within 60 days after the mailing date of the order or notice of assessment.

(C) The administrator will forward the request and other pertinent information to the Workers' Compensation Board.

(8) Other Proceedings.

(a) Any party seeking an action or decision by the director, or any party aggrieved by an action taken by another party not covered under sections (1) through (7) of this rule, may request administrative review before the director.

(b) A written request for review must be sent to the administrator of the Workers' Compensation Division within 90 days of the disputed action and must specify the grounds upon which the action is contested.

(c) The administrator may require and allow such input and information as it deems appropriate to complete the review.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248, 656.252, 656.254, 656.256, 656.260, 656.268, 656.313, 656.325, 656.327, 656.331, 656.704
Hist.: WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 18-1995(Temp), f. & cert. ef. 12-4-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-00; WCD 3-2000, f. 4-3-00, cert. ef. 4-21-00; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0200**
**Medical Advisory Committee**

The Medical Advisory Committee members are appointed by the director of the Department of Consumer and Business Services. The committee must include one insurer representative, one employer representative, one worker representative, one managed care organization representative, and a diverse group of health care providers representative of those providing medical care to injured or ill workers.

The director may appoint other persons as may be determined necessary to carry out the purpose of the committee. Health care providers must comprise a majority of the committee at all times. When appointing members, the director should select health care providers who will consider the perspective of specialty care, primary care, and ancillary care providers and consider the ability of members to represent the interests of the community at large.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.794
Hist.: WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0095; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-990; WCD 3-2000, f. 4-3-00, cert. ef. 4-21-00; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0210**
**Attending Physician, Authorized Nurse Practitioner, and Time-Loss Authorization**

(1) An attending physician or authorized nurse practitioner is primarily responsible for the patient's care, authorizes time loss, and prescribes and monitors ancillary care and specialized care.

(a) No later than five days after becoming a patient's attending physician or authorized nurse practitioner, the provider must notify the insurer using Form 827. Regardless of whether Form 827 is filed, the facts of the case and the actions of the provider determine if the provider is the attending physician or authorized nurse practitioner.

(b) Type A and B attending physicians and authorized nurse practitioners may authorize time loss and manage medical services subject to the limitations of ORS Chapter 656 or a managed care organization contract. (See Appendix A "Matrix for Health Care Provider Types")

(c) Except for emergency services, or otherwise provided for by statute or these rules, all treatments and medical services must be approved by the worker's attending physician or authorized nurse practitioner.

(2) Emergency Room Physicians. Emergency room physicians may authorize time loss for no more than 14 days when they refer the patient to a primary care physician. If an emergency room physician sees a patient in his or her private practice apart from their duties as an emergency room physician, the physician may be the attending physician.

(3) Authorized Nurse Practitioners.

(a) In order to provide any compensable medical service, a nurse practitioner licensed in Oregon under ORS 678.375 to 678.390 must review a packet of materials provided by the division and complete the statement of authorization. (See www.oregonwcdoc.info) Once the nurse practitioner has completed the statement of authorization, the division will assign an authorized nurse practitioner number.

(b) An authorized nurse practitioner may:

(A) Provide compensable medical services to an injured worker for a period of 180 days from the date of the first visit with a nurse practitioner on the initial claim. Thereafter, medical services provided by an authorized nurse practitioner are not compensable without the attending physician's authorization; and

(B) Authorize temporary disability benefits for a period of up to 180 days from the date of the first nurse practitioner visit on the initial claim.

(4) Unlicensed to Provide Medical Services. Attending physicians may prescribe services to be carried out by persons not licensed to provide a medical service or treat independently. These services must be rendered under the physician's direct control and supervision. Home health care provided by a patient's family member is not required to be provided under the direct control and supervision of the attending physician if the family member demonstrates competency to the satisfaction of the attending physician.

(5) Out-of-State Attending Physicians. The worker may choose an attending physician outside the state of Oregon with the approval of the insurer. When the insurer receives the worker's request or becomes aware of the worker's request to treat with an out-of-state attending physician, the insurer must give the worker written notice of approval or disapproval of the worker's choice of attending physician within 14 days.

(a) If the insurer approves the worker's choice of out-of-state attending physician, the insurer must immediately notify the worker and the physician in writing of the following:

(A) The Oregon medical fee and payment rules, OAR 436-009;

(B) The manner in which the out-of-state physician may provide compensable medical treatment or services to Oregon workers; and

(C) That the insurer cannot pay bills for compensable services above the Oregon fee schedule.

(b) If the insurer disapproves the worker's out-of-state attending physician, the notice to the worker must:

(A) Clearly state the reasons for the disapproval, for example, the out-of-state physician's refusal to comply with OAR 436-009 and 436-010,

(B) Identify at least two other physicians of the same healing art and specialty in the same area that the insurer would approve, and

(C) Inform the worker that if the worker disagrees with the disapproval, the worker may request approval from the director under OAR 436-010-0220.

(6) If an approved out-of-state attending physician does not comply with OAR 436-009 or 436-010, the insurer may withdraw approval of the attending physician. The insurer must notify the worker and the physician in writing:

(a) The reasons for withdrawing the approval,

(b) That any future services provided by that physician will not be paid by the insurer, and

(c) That the worker may be liable for payment of services provided after the date of notification.

(7) If the worker disagrees with the insurer's decision to disapprove an out-of-state attending physician, the worker or worker's representative may request approval from the director under OAR 436-010-0220.

[ED. NOTE: Forms and Appendices referenced are available from the agency.]

Stat. Auth.:ORS 656.726(4)

Stats. Implemented: ORS 656.005(12), 656.245 & 656.260

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 5-1984(Admin), f. & ef. 8-20-84; Renumbered from 436-069-0301, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0050; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-000; WCD 3-2000, f. 4-3-00, cert. ef. 4-21-00; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 12-2007(Temp), f. 12-14-07, cert. ef. 1-2-08 thru 6-29-08; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 5-2011, f. 11-18-11, cert. ef. 1-1-12; WCD 2-2013, f. 3-11-13, cert. ef. 4-1-13; WCD 7-2013, f. 11-12-13, cert. ef. 1-1-14; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0220**
**Choosing and Changing Medical Providers**

(1) The worker may have only one attending physician or authorized nurse practitioner at a time. Concurrent treatment or services by other medical providers, including specialist physicians, must be sufficiently different that separate medical skills are needed for proper care, and must be based on a written referral by the attending physician or authorized nurse practitioner. The referral must specify any limitations and a copy must be sent to the insurer. A specialist physician is authorized to provide or order all compensable medical services and treatment he or she considers appropriate, unless the referral is for a consultation only. The attending physician or authorized nurse practitioner continues to be responsible for authorizing temporary disability even if the specialist physician is providing or authorizing medical services and treatment. Physicians who provide the following services are not considered attending physicians:

(a) Emergency services;

(b) Insurer or director requested examinations;

(c) A Worker Requested Medical Examination;

(d) Consultations or referrals for specialized treatment or services initiated by the attending physician or authorized nurse practitioner; and

(e) Diagnostic studies provided by radiologists and pathologists upon referral.

(2) Changing Attending Physician or Authorized Nurse Practitioner. The worker may choose to change his or her attending physician or authorized nurse practitioner only twice after the initial choice. When the worker requests a referral by the attending physician or authorized nurse practitioner to another attending physician or authorized nurse practitioner, the change will count as one of the worker's choices. The limitation of the worker's right to choose attending physicians or authorized nurse practitioners begins with the date of injury and extends through the life of the claim. The following are not considered changes of attending physician or authorized nurse practitioner initiated by the worker and do not count toward the worker's two changes:

(a) When the worker has an attending physician or authorized nurse practitioner who works in a group setting/facility and the worker sees another group member due to team practice, coverage, or on-call routines;

(b) When the worker's attending physician or authorized nurse practitioner is not available and the worker sees a medical provider who is covering for that provider in their absence; or

(c) When the worker is required to change attending physician or authorized nurse practitioner due to conditions beyond the worker's control. This could include, but is not limited to:

(A) When the attending physician or authorized nurse practitioner terminates practice or leaves the area;

(B) When the attending physician or authorized nurse practitioner is no longer willing to treat the worker;

(C) When the worker moves out of the area requiring more than a 50 mile commute to the attending physician or authorized nurse practitioner;

(D) When the period for treatment or services by a type B attending physician or an authorized nurse practitioner has expired (See Appendix A "Matrix for Health Care Provider Types");

(E) When the authorized nurse practitioner is required to refer the worker to an attending physician for a closing examination or because of a possible worsening of the worker's condition following claim closure;

(F) When the worker becomes subject to a managed care organization (MCO) contract and must change to an attending physician or authorized nurse practitioner on the MCO's panel;

(G) When the worker who, at the time of MCO enrollment was required to change attending physician or authorized nurse practitioner, is disenrolled from an MCO; or

(H) When the worker has to change because their attending physician or authorized nurse practitioner is no longer qualified as an attending physician or authorized to continue providing compensable medical services.

(3) Insurer Notice to the Worker. When the worker has changed attending physicians or authorized nurse practitioners twice by choice or has reached the maximum number of changes established by the MCO, the insurer must notify the worker by certified mail that any additional changes by choice must be approved by the insurer or the director. If the insurer fails to provide such notice and the worker later chooses another attending physician or authorized nurse practitioner, the insurer must pay for compensable medical services rendered prior to notice to the worker. The insurer must notify the newly selected provider that the worker was not allowed to change his or her attending physician or authorized nurse practitioner without approval of the insurer or director, and therefore any future services will not be paid. The insurer must pay for appropriate medical services rendered prior to this notification.

(4) Worker Requesting Additional Changes of Attending Physician or Authorized Nurse Practitioner.

(a) If a worker not enrolled in an MCO has changed attending physicians or authorized nurse practitioners by choice twice (or for MCO enrolled workers, the maximum allowed by the MCO) and wants to change again, the worker must request approval from the insurer. The worker must make the request in writing or by signing Form 827. The insurer must respond to the worker within 14 days of receiving the request whether the change is approved. If the insurer objects to the change, the insurer must:

(A) Send the worker a written explanation of the reasons;

(B) Send the worker Form 2332 (Worker's Request to Change Attending Physician or Authorized Nurse Practitioner); and

(C) Inform the worker that he or she may request director approval by sending Form 2332 to the director.

(b) When the worker submits a request to the director for an additional change of attending physician or authorized nurse practitioner, the director may request, in writing, additional information. If the director requests additional information, the parties must respond in writing within 14 days of the director's request.

(c) The director will issue an order advising whether the request for change of attending physician or authorized nurse practitioner is approved. On a case-by-case basis the director will consider circumstances, such as:

(A) Whether there is medical justification for a change, e.g., whether the attending physician or authorized nurse practitioner can provide the type of treatment or service that is appropriate for the worker's condition.

(B) Whether the worker has moved to a new area and wants to establish an attending physician or authorized nurse practitioner closer to the worker's residence.

(d) Any party that disagrees with the director's order may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order.

(5) Managed Care Organization (MCO) Enrolled Workers. An MCO enrolled worker must choose:

(a) A panel provider unless the MCO approves a non-panel provider, or

(b) A "come-along provider" who provides medical services subject to the terms and conditions of the governing MCO.

[ED. NOTE: Forms & Appendices referenced are available from the agency.]

Stat. Auth.: ORS 656.276(4)

Stats. Implemented: ORS 656.245, 656.252 & 656.260

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0401, 5-1-85; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0060; WCD 11-1998, f. 12-

16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 12-2007(Temp), f. 12-14-07, cert. ef. 1-2-08 thru 6-29-08; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08;
WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0230**
**Medical Services and Treatment Guidelines**

(1) Medical services provided to the worker must not be more than the nature of the compensable injury or the process of recovery requires. Services that are unnecessary or inappropriate according to accepted professional standards are not reimbursable.

(2) If the provider's chart notes do not provide evidence of frequency, extent, and efficacy of treatment and services, the insurer may request additional information from the provider.

(3) All medical service providers must notify the patient at the time of the first visit of how they can provide compensable medical services and authorize time loss. Providers must also notify patients that they may be personally liable for noncompensable medical services. Such notification should be made in writing or documented in the patient's medical record.

(4) Consent to Attend a Medical Appointment.

(a) An employer or insurer representative, such as a nurse case manager, may not attend a patient's medical appointment without written consent of the patient. The patient has the right to refuse such attendance.

(A) The consent form must be written in a way that allows the patient to understand it and to overcome language or cultural differences.

(B) The consent form must state that the patient's benefits cannot be suspended if the patient refuses to have an employer or insurer representative present.

(C) The insurer must keep a copy of the signed consent form in the claim file.

(b) The patient or the medical provider may refuse to allow an employer or insurer representative to attend an appointment at any time, even if the patient previously signed a consent form. The medical provider may refuse to meet with the employer or insurer representative.

(5) Request for Records at a Medical Appointment. The medical provider may refuse to provide copies of the patient's medical records to the insurer representative without proof that the person is representing the insurer. The provider may charge for any copies that are provided.

(6) Requesting a Medical Provider Consultation. The attending physician, authorized nurse practitioner, or the MCO may request a consultation with a medical provider regarding conditions related to an accepted claim. MCO-requested consultations that are initiated by the insurer, which include an exam of the worker, must be considered independent medical exams under OAR 436-010-0265.

(7) Ancillary Services — Treatment Plan.

(a) Ancillary medical service providers include but are not limited to physical or occupational therapists, chiropractic or naturopathic physicians, and acupuncturists. When an attending or specialist physician or an authorized nurse practitioner prescribes ancillary services, unless an MCO contract specifies other requirements, the ancillary provider must prepare a treatment plan before beginning treatment.

(b) The ancillary medical service provider must send the treatment plan to the prescribing provider and the insurer within seven days of beginning treatment. If the treatment plan is not sent within seven days, the insurer is not required to pay for the services provided before the treatment plan is sent.

(c) The treatment plan must include objectives, modalities, frequency of treatment, and duration. The treatment plan may be in any legible format, e.g., chart notes.

(d) Treatment plans required under this subsection do not apply to services provided under ORS 656.245(2)(b)(A). (See Appendix A "Other Health Care Providers.")

(e) Within 30 days of the beginning of ancillary services, the prescribing provider must sign a copy of the treatment plan and send it to the insurer. If the prescribing provider does not sign and send the treatment plan, the provider may be subject to sanctions under OAR 436-010-0340. However, this will not affect payment to the ancillary provider.

(f) Authorized nurse practitioners, out-of-state nurse practitioners, and physician assistants directed by the attending physician do not have to provide a written treatment plan as prescribed in this section.

(8) Massage Therapy. Unless otherwise provided by an MCO, when an attending physician, authorized nurse practitioner, or specialist physician prescribes ancillary services provided by a massage therapist licensed by the Oregon State Board of Massage Therapists under ORS 687.011 to 687.250, the massage therapist must prepare a treatment plan before beginning treatment. Massage therapists not licensed in Oregon must provide their services under the direct control and supervision of the attending physician. Treatment plans provided by massage therapists must follow the same requirements as those for ancillary providers in section (5) of this rule.

(9) Therapy Guidelines and Requirements.

(a) Unless otherwise provided by an MCO's utilization and treatment standards, the usual range for therapy visits is up to 20 visits in the first 60 days, and four visits a month thereafter. This is only a guideline and insurers should not arbitrarily limit payment based on this guideline nor should the therapist arbitrarily use this guideline to exceed medically necessary treatment. The medical record must provide clinical justification when therapy services exceed these guidelines. When an insurer believes the treatment is inappropriate or excessive, the insurer may request director review as outlined in OAR 436-010-0008.

(b) Unless otherwise provided by an MCO, a physical therapist must submit a progress report to the attending physician (or authorized nurse practitioner) and the insurer every 30 days or, if the patient is seen less frequently, after every visit. The progress report may be part of the physical therapist's chart notes and must include:

(A) Subjective status of the patient;

(B) Objective data from tests and measurements conducted;

(C) Functional status of the patient;

(D) Interpretation of above data; and

(E) Any change in the treatment plan.

(10) Physical Capacity Evaluation. The attending physician or authorized nurse practitioner must complete a physical capacity or work capacity evaluation within 20 days after the insurer or director requests the evaluation. If the attending physician or authorized nurse practitioner does not wish to perform the evaluation, they must refer the patient to a different provider within seven days of the request. The attending physician or authorized nurse practitioner must notify the insurer and the patient in writing if the patient is incapable of participating in the evaluation.

(11) Prescription Medication.

(a) Unless otherwise provided by an MCO contract, prescription medications do not require prior approval even after the worker is medically stationary. For prescription medications, the insurer must reimburse the worker based on actual cost. When a provider prescribes a brand-name drug, pharmacies must dispense the generic drug (if available) according to ORS 689.515. When a worker insists on receiving the brand-name drug, and the prescribing provider has not prohibited substitution, the worker must pay the total cost of the brand-name drug out-of-pocket and request reimbursement from the insurer. However, if the insurer has previously notified the worker that the worker is liable for the difference between the generic and brand-name drug, the insurer only has to reimburse the worker the generic price of the drug. Except in an emergency, prescription drugs for oral consumption dispensed by a physician's or authorized nurse practitioner's office are compensable only for the initial supply to treat the worker, up to a maximum of 10 days. Unless otherwise provided by an MCO contract, the worker may choose the dispensing provider.

(b) Providers should review and are encouraged to adhere to the workers' compensation division's opioid guidelines. See http://www.cbs.state.or.us/wcd/rdrs/mru/ogandcal.html.

(12) Diagnostics. Unless otherwise provided by an MCO, a medical provider may contact an insurer in writing for pre-authorization of diagnostic imaging studies other than plain film X-rays. Pre-authorization is not a guarantee of payment. The insurer must respond to the provider's request in writing whether the service is pre-authorized or not pre-authorized within 14 days of receipt of the request.

(13) Articles. Articles, including but not limited to, beds, hot tubs, chairs, and gravity traction devices are not compensable unless a report by the attending physician or authorized nurse practitioner clearly justifies the need. The report must:

(a) Establish that the nature of the injury or the process of recovery requires the item be furnished, and

(b) Specifically explain why the worker requires the item when the great majority of workers with similar impairments do not.

(14) Physical Restorative Services.

(a) Physical restorative services include, but are not limited to, a regular exercise program, personal exercise training, or swim therapy. They are not services to replace medical services usually prescribed during the course of recovery. Physical restorative services are not compensable unless:

(A) The nature of the worker's limitations requires specialized services to allow the worker a reasonable level of social or functional activity, and

(B) A report by the attending physician or authorized nurse practitioner clearly justifies why the worker requires services not usually considered necessary for the majority of workers.

(b) Trips to spas, resorts, or retreats, whether prescribed or in association with a holistic medicine regimen, are not reimbursable unless special medical circumstances are shown to exist.

(15) Lumbar Artificial Disc Replacement Guidelines.

(a) Lumbar artificial disc replacement is always inappropriate for patients with the following conditions (absolute contraindications):

(A) Metabolic bone disease — for example, osteoporosis;

(B) Known spondyloarthropathy (seropositive and seronegative);

(C) Posttraumatic vertebral body deformity at the level of the proposed surgery;

(D) Malignancy of the spine;

(E) Implant allergy to the materials involved in the artificial disc;

(F) Pregnancy — currently;

(G) Active infection, local or systemic;

(H) Lumbar spondylolisthesis or lumbar spondylolysis;

(I) Prior fusion, laminectomy that involves any part of the facet joint, or facetectomy at the same level as proposed surgery; or

(J) Spinal stenosis — lumbar — moderate to severe lateral recess and central stenosis.

(b) Lumbar artificial disc replacement that is not excluded from compensability under OAR 436-009-0010(12)(g) may be inappropriate for patients with the following conditions, depending on severity, location, etc. (relative contraindications):

(A) A comorbid medical condition compromising general health, for example, hepatitis, poorly controlled diabetes, cardiovascular disease, renal disease, autoimmune disorders, AIDS, lupus, etc.;

(B) Arachnoiditis;

(C) Corticosteroid use (chronic ongoing treatment with adrenal immunosuppression);

(D) Facet arthropathy — lumbar — moderate to severe, as shown radiographically;

(E) Morbid obesity — BMI greater than 40;

(F) Multilevel degenerative disc disease — lumbar — moderate to severe, as shown radiographically;

(G) Osteopenia — based on bone density test;

(H) Prior lumbar fusion at a different level than the proposed artificial disc replacement; or

(I) Psychosocial disorders — diagnosed as significant to severe.

(16) Cervical Artificial Disc Replacement Guidelines.

(a) Cervical artificial disc replacement is always inappropriate for patients with any of the following conditions (absolute contraindications):

(A) Instability in the cervical spine which is greater than 3.5 mm of anterior motion or greater than 20 degrees of angulation;

(B) Significantly abnormal facets;

(C) Osteoporosis defined as a T-score of negative (-)2.5 or more negative (e.g., -2.7);

(D) Allergy to metal implant;

(E) Bone disorders (any disease that affects the density of the bone);

(F) Uncontrolled diabetes mellitus;

(G) Active infection, local or systemic;

(H) Active malignancy, primary or metastatic;

(I) Bridging osteophytes (severe degenerative disease);

(J) A loss of disc height greater than 75 percent relative to the normal disc above;

(K) Chronic indefinite corticosteroid use;

(L) Prior cervical fusion at two or more levels; or

(M) Pseudo-arthrosis at the level of the proposed artificial disc replacement.

(b) Cervical artificial disc replacement that is not excluded from compensability under OAR 436-009-0010(12)(h) may be inappropriate for patients with any of the following conditions, depending on severity, location, etc. (relative contraindications):

(A) A comorbid medical condition compromising general health, for example hepatitis, poorly controlled diabetes, cardiovascular disease, renal disease, autoimmune disorders, AIDS, lupus, etc.;

(B) Multilevel degenerative disc disease — cervical — moderate to severe, as shown radiographically;

(C) Osteopenia — based on bone density test with a T-score range of negative (-)1.5 to negative (-)2.5;

(D) Prior cervical fusion at one level;

(E) A loss of disc height of 50 percent to 75 percent relative to the normal disc above; or

(F) Psychosocial disorders — diagnosed as significant to severe.

Stat. Auth: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248, 656.252

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 5-1984(Admin), f. & ef. 8-20-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0201, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0040; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-1999(Temp), f. & cert. ef. 2-11-99 thru 8-10-99; WCD 7-1999, f. & cert. ef. 4-28-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 5-2011, f. 11-18-11, cert. ef. 1-1-12; WCD 2-2013, f. 3-11-13, cert. ef. 4-1-13; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0240**

**Medical Records and Reporting Requirements for Medical Providers**

(1) Medical Records and Reports.

(a) Medical providers must maintain records necessary to document the extent of medical services provided.

(b) All records must be legible and cannot be kept in a coded or semi-coded manner unless a legend is provided with each set of records.

(c) Reports may be handwritten and must include all relevant or requested information such as the anticipated date of release to return to work, medically stationary date, etc.

(d) Diagnoses stated on all reports, including Form 827, must conform to terminology found in the appropriate International Classification of Disease (ICD).

(2) Diagnostic Studies. When the director or the insurer requests original diagnostic studies, including but not limited to actual films, they must be forwarded to the director, the insurer, or the insurer's designee within 14 days of receipt of a written request.

(a) Diagnostic studies, including films, must be returned to the medical provider within a reasonable time.

(b) The insurer must pay a reasonable charge made by the medical provider for the costs of delivery of diagnostic studies, including films.

(3) Multidisciplinary Programs. When an attending physician or authorized nurse practitioner approves a multidisciplinary treatment program for the worker, the attending physician or authorized nurse practitioner must provide the insurer with a copy of the approved treatment program within 14 days of the beginning of the treatment program.

(4) Release of Medical Records.

(a) Health Insurance Portability and Accountability Act (HIPAA) rules allow medical providers to release information to insurers, self-insured employers, service companies, or the Department of Consumer and Business Services. (See 45 CFR 164.512(l).)

(b) When patients file workers' compensation claims they are authorizing medical providers and other custodians of claim records to release relevant medical records including diagnostics. The medical provider will not incur any legal liability for disclosing such records. (See ORS 656.252(4).) The authorization is valid for the life of the claim and cannot be revoked by the patient or the patient's representative. A separate authorization is required for release of information regarding:

(A) Federally funded drug and alcohol abuse treatment programs governed by Federal Regulation 42, CFR 2, which may only be obtained in compliance with this federal regulation, and

(B) HIV-related information protected by ORS 433.045(3).

(c) Any medical provider must provide all relevant information to the director, or the insurer or its representative upon presentation of a signed Form 801, 827, or 2476. The insurer may print "Signature on file" on a release form as long as the insurer maintains a signed original. However, the medical provider may require a copy of the signed release form.

(d) The medical provider must respond within 14 days of receipt of a request for progress reports, narrative reports, diagnostic studies, or relevant medical records needed to review the efficacy, frequency, and necessity of medical treatment or medical services. Medical information relevant to a claim includes a past history of complaints or treatment of a condition similar to that presented in the claim or other conditions related to the same body part.

(e) Patients or their representatives are entitled to copies of all medical and payment records, which may include records from other medical

providers. Patients or their representatives may request all or part of the record. These records should be requested from the insurer, but may also be obtained from medical providers. A summary may substitute for the actual record only if the patient agrees to the substitution. The following records may be withheld:

(A) Psychotherapy notes;

(B) Information compiled for use in a civil, criminal, or administrative action or proceeding;

(C) Other reasons specified by federal regulation; and

(D) Information that was obtained from someone other than a medical provider when the medical provider promised confidentiality and release of the information would likely reveal the source of the information.

(f) A medical provider may charge the patient or his or her representative for copies at the rate specified in OAR 436-009-0060. A patient may not be denied summaries or copies of his or her medical records because of inability to pay.

(5) Release to Return to Work.

(a) When requested by the insurer, the attending physician or authorized nurse practitioner must submit verification that the patient's medical limitations related to their ability to work result from an occupational injury or disease. If the insurer requires the attending physician or authorized nurse practitioner to complete a release to return-to-work form, the insurer must use Form 3245.

(b) The attending physician or authorized nurse practitioner must advise the patient, and within five days, provide the insurer written notice of the date the patient is released to return to regular or modified work.

(6) Time Loss and Medically Stationary.

(a) When time loss is authorized by the attending physician or authorized nurse practitioner, the insurer may require progress reports every 15 days. Chart notes may be sufficient to satisfy this requirement. If more information is required, the insurer may request a brief or complete narrative report. The provider must submit a requested progress report or narrative report within 14 days of receiving the insurer's request.

(b) The attending physician or authorized nurse practitioner must, if known, inform the patient and the insurer of the following and include it in each progress report:

(A) The anticipated date of release to work;

(B) The anticipated date the patient will become medically stationary;

(C) The next appointment date; and

(D) The patient's medical limitations.

(c) The insurer must not consider the anticipated date of becoming medically stationary as a date of release to return to work.

(d) The attending physician or authorized nurse practitioner must notify the patient, insurer, and all other medical providers involved in the patient's treatment when the patient is determined medically stationary and whether the patient is released to any kind of work. The medically stationary date must be the date of the exam and not a projected date.

(7) Consultations. When the attending physician, authorized nurse practitioner, or the MCO requests a consultation with a medical provider regarding conditions related to an accepted claim:

(a) The attending physician, authorized nurse practitioner, or the MCO must promptly notify the insurer of the request for the consultation and provide the consultant with all relevant medical records. However, if the consultation is for diagnostic studies performed by radiologists or pathologists, no such notification is required.

(b) The consultant must submit a copy of the consultation report to the insurer and the attending physician, authorized nurse practitioner, or MCO within 10 days of the date of the exam or chart review. The consultation fee includes the fee for this report.

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

Stat. Auth.: ORS 656.276(4)

Stats. Implemented: ORS 656.245, 656.252 & 656.254

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0101, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 14-1990(Temp), f. & cert. ef. 7-20-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0030; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0241**

**Form 827, Worker's and Health Care Provider's Report for Workers' Compensation Claims**

(1) First Visit.

(a) When the patient has filed an initial claim or wants to file an initial claim, the patient and the first medical service provider must complete and sign Form 827. The provider must send the form to the insurer no later than 72 hours after the patient's first visit (Saturdays, Sundays, and holidays are not counted in the 72-hour period).

(b) Form 3283 ("A Guide for Workers Recently Hurt on the Job") is included with Form 827. All medical service providers must give a copy of Form 3283 and Form 827 to the patient.

(2) New or Omitted Medical Condition. A patient may use Form 827 to request that the insurer formally accept a new or omitted medical condition. If the patient uses the form to request acceptance of a new or omitted medical condition during a medical visit, the medical service provider may write the claimed condition or the appropriate International Classification of Diseases (ICD) diagnosis code for the patient in the space provided on the form. After the patient signs the form, the provider must send it to the insurer within five days.

(3) Change of Attending Physician. When the patient changes attending physician or authorized nurse practitioner, the patient and the new medical service provider must complete and sign Form 827. The provider must send Form 827 to the insurer within five days after becoming a patient's attending physician or authorized nurse practitioner. The new attending physician or authorized nurse practitioner is responsible for requesting all available medical records from the previous attending physician, authorized nurse practitioner, or insurer. Anyone failing to forward the requested information to the new attending physician or authorized nurse practitioner within 14 days of receiving the request may be subject to sanctions under OAR 436-010-0340.

(4) Aggravation. After the patient has been declared medically stationary, and an exam reveals an aggravation of the patient's accepted condition, the patient may file a claim for aggravation. The patient or the patient's representative and the attending physician must complete and sign Form 827. The physician, on the patient's behalf, must submit Form 827 to the insurer within five days of the exam. Within 14 days of the exam, the attending physician must send a written report to the insurer that includes objective findings that document:

(a) Whether the patient has suffered a worsened condition attributable to the compensable injury under the criteria in ORS 656.273; and

(b) Whether the patient is unable to work as a result of the compensable worsening.

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

Stat. Auth: ORS 656.726(4)

Stat. Implemented: ORS 656.245, 656.252, 656.254, 656.273

Hist.: WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0250**

**Elective Surgery**

(1) "Elective surgery" is surgery that may be required to recover from an injury or illness, but is not an emergency surgery to preserve life, function, or health.

(2) Except as otherwise provided by the MCO, the attending physician, authorized nurse practitioner, or specialist physician must give the insurer at least seven days notice before the date of the proposed elective surgery to treat a compensable injury or illness. The notice must provide the medical information that substantiates the need for surgery, and the approximate surgical date and place if known. A chart note is considered "notice" if the information required by this section is included in the note.

(3) When elective surgery is proposed, the insurer may require an independent consultation (second opinion) with a physician of the insurer's choice.

(4) The insurer must respond to the recommending physician, the worker, and the worker's representative within seven days of receiving the notice of intent to perform surgery that the proposed surgery:

(a) Is approved;

(b) Is not approved and a consultation is requested by using Form 3228 (Elective Surgery Notification); or

(c) Is disapproved by using Form 3228.

(5) If the insurer does not complete Form 3228 (e.g., no specific date or consultant name) or communicate approval to the recommending physician within seven days of receiving the notice of intent to perform surgery, the insurer is barred from challenging the appropriateness of the surgery or whether the surgery is excessive or ineffectual. The attending physician and the worker may decide whether to proceed with surgery.

(6) If the insurer requests a consultation, it must be completed within 28 days after sending Form 3228 to the physician.

(7) The insurer must notify the recommending physician of the consultant's findings within seven days of the consultation.

(8) When the consultant disagrees with the proposed surgery, the recommending physician and insurer should attempt to resolve disagreement. The insurer and recommending physician may agree to obtain additional diagnostic testing or other medical information, such as asking for clarification from the consultant, to assist in reaching an agreement regarding the proposed surgery.

(9) If the recommending physician cannot reach an agreement with the insurer and continues to recommend the proposed surgery, the physician must either send the signed and dated Form 3228 or other written notification to the insurer, the patient, and the patient's representative. If the insurer believes the proposed surgery is excessive, inappropriate, ineffectual, or in violation of these rules, the insurer must request administrative review before the director within 21 days of receiving the notification. If the insurer fails to timely request administrative review the insurer is barred from challenging whether the surgery is or was excessive, inappropriate, or ineffectual. The attending physician and the worker may decide whether to proceed with surgery.

(10) A recommending physician who prescribes or performs elective surgery and fails to give the insurer the seven day notice requirement may be subject to civil penalties as provided in ORS 656.254 and OAR 436-010-0340. The insurer may still be responsible to pay for the elective surgery.

(11) Surgery that must be performed before seven days, because the condition is life threatening or there is rapidly progressing deterioration or acute pain not manageable without surgical intervention, is not considered elective surgery. In such cases, the attending physician or authorized nurse practitioner should try to notify the insurer of the need for emergency surgery.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248, 656.252, 656.260 & 656.327

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0501, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0070; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0265**

**Independent Medical Exams (IMEs) and Worker Requested Medical Exams (WRMEs)**

(1) General.

(a) Except as provided in section (12) of this rule, "independent medical exam" (IME) means any medical exam (including a physical capacity or work capacity evaluation or consultation that includes an exam) that is requested by the insurer under ORS 656.325. A "worker-requested medical exam" (WRME) is an exam available to a worker under ORS 656.325. An IME or WRME is completed by a medical service provider other than the worker's attending physician or authorized nurse practitioner. The insurer may obtain three IMEs for each opening of the claim. These exams may be obtained before or after claim closure. For the purpose of determining the number of IMEs, any IME scheduled but not completed does not count as a statutory IME. A claim for aggravation, Board's Own Motion, or reopening of a claim when the worker becomes enrolled or actively engaged in training according to rules adopted under ORS 656.340 and 656.726 allows a new series of three IMEs. A medical service provider must not unreasonably interfere with the right of the insurer to obtain an IME by a physician of the insurer's choice. The insurer must choose the medical service providers from the director's list of authorized IME providers under ORS 656.328. The IME may be conducted by one or more providers of different specialties, generally done at one location and completed within a 72-hour period. If the providers are not at one location, the IME must be completed within a 72-hour period and at locations reasonably convenient to the worker.

(b) The provider will determine the conditions under which the exam will be conducted.

(c) IMEs must be at times and intervals reasonably convenient to the worker and must not delay or interrupt treatment of the worker.

(d) When the insurer requires a worker to attend an IME, the insurer must comply with the notification and reimbursement requirements found in OAR 436-009-0025 and 436-060-0095.

(e) A medical provider who unreasonably fails to provide diagnostic records for an IME under OAR 436-010-0240 may be assessed a penalty under ORS 656.325.

(f) The worker may complete an online survey at www.wcdimesurvey.info or make a complaint about the IME on the Workers' Compensation Division's website. If the worker does not have access to the Internet, the worker may call the Workers' Compensation Division at 503-947-7606.

(2) IME/WRME Authorization.

(a) Medical service providers can perform IMEs, WRMEs, or both once they complete a director-approved training and are placed on the director's list of authorized IME providers.

(A) To be on the director's list to perform IMEs or WRMEs, a medical service provider must complete the online application at www.oregonwcdoc.info, hold a current license, be in good standing with the provider's regulatory board, and must have:

(i) Reviewed IME training materials provided or approved by the director found at www.oregonwcdoc.info; or

(ii) Completed a director-approved training course regarding IMEs. The training curriculum must include all topics listed in Appendix B.

(B) By submitting the application to the director, the medical service provider agrees to abide by:

(i) The standards of professional conduct for performing IMEs adopted by the provider's regulatory board or standards published in Appendix C if the provider's regulatory board does not have standards; and

(ii) All relevant workers' compensation laws and rules.

(C) A provider may be sanctioned or removed from the director's list of authorized IME providers after the director finds that the provider:

(i) Violated the standards of either the professional conduct for performing IMEs adopted by the provider's regulatory board or the independent medical examination standards published in Appendix C;

(ii) Has a current restriction on his or her license or is under a current disciplinary action from their professional regulatory board;

(iii) Has entered into a voluntary agreement with his or her regulatory board that the director determines is detrimental to performing IMEs;

(iv) Violated workers' compensation laws or rules; or

(v) Has failed to complete training required by the director.

(D) A provider may appeal the director's decision to exclude or remove the provider from the director's list within 60 days under ORS 656.704(2) and OAR 436-001-0019.

(b) If a provider is not on the director's list of authorized IME providers at the time of the IME, the insurer may not use the IME report and the report may not be used in any subsequent proceedings.

(3) IME Training.

(a) The IME provider training curriculum must be approved by the director before the training is given. Any party may submit a curriculum to the director for approval. The curriculum must include:

(A) A training outline,

(B) Goals,

(C) Objectives,

(D) The method of training, and

(E) All topics addressed in Appendix B.

(b) Within 21 days of the IME training, the training vendor must send the director the date of the training and a list of all medical providers who completed the training, including names and license numbers.

(c) Insurer claims examiners must be trained and certified in accordance with OAR 436-055 regarding appropriate interactions with IME medical service providers.

(4) IME Related Forms.

(a) When scheduling an IME, the insurer must ensure the medical service provider has:

(A) Form 3923, "Important Information about Independent Medical Exams," available to the worker before the exam; and

(B) Form 3227, "Invasive Medical Procedure Authorization," if applicable.

(b) The IME provider must make Form 3923 with the attached observer Form 3923A available to the worker.

(5) IME Observer.

(a) A worker may choose to have an observer present during the IME, however, an observer may not participate in or obstruct the IME. An observer is not allowed in a psychological examination unless the examining provider approves the presence of the observer.

(b) The worker must sign Form 3923A, "IME Observer Form," acknowledging that the worker understands the IME provider may ask sensitive questions during the exam in the presence of the observer. An observer must not participate in or obstruct the exam. If the worker does not sign

Form 3923A, the provider may exclude the observer. The IME provider must verify that the worker signed the "IME Observer Form" acknowledging that the worker understands:

(A) The IME provider may ask sensitive questions during the exam in the presence of the observer;

(B) If the observer interferes with the exam, the IME provider may stop the exam, which could affect the worker's benefits; and

(C) The observer must not be paid to attend the exam.

(c) A person receiving any compensation for attending the exam may not be a worker's observer. The worker's attorney or any representative of the worker's attorney may not be an observer.

(6) Invasive Procedure. For the purposes of this rule, an invasive procedure is one that breaks the skin or penetrates, pierces, or enters the body using a surgical or exploratory procedure (e.g., by a needle, tube, scope, or scalpel). If an IME provider intends to perform an invasive procedure, the provider must explain to the worker the risks involved in the procedure and the worker's right to refuse the procedure. The worker must check the applicable box on Form 3227, "Invasive Medical Procedure Authorization," either agreeing to the procedure or declining the procedure and sign the form.

(7) Record the Exam. With the IME provider's approval, the worker may use a video camera or other recorder to record the exam.

(8) Objection to the IME Location. When a worker objects to the location of an IME, the worker may request review before the director within six business days of the mailing date of the appointment notice.

(a) The request may be made in-person, by telephone, fax, email, or mail.

(b) The director may facilitate an agreement between the parties regarding location.

(c) If necessary, the director will conduct an expedited review and issue an order regarding the reasonableness of the location.

(d) The director will determine if travel is medically contraindicated or unreasonable because:

(A) The travel exceeds limitations imposed by the attending physician, authorized nurse practitioner, or any medical conditions;

(B) Alternative methods of travel will not overcome the limitations; or

(C) The travel would impose undue hardship for the worker that outweighs the right of the insurer to select an IME location of its choice.

(9) Failure to Attend an IME. If the worker fails to attend an IME and does not notify the insurer before the date of the exam or does not have sufficient reason for not attending the exam, the director may impose a monetary penalty against the worker for failure to attend.

(10) IME Report.

(a) Upon completion of the exam, the IME provider must:

(A) Send the insurer a copy of the report and, if applicable, the observer Form 3923A, the invasive procedure Form 3227, or both.

(B) Sign a statement at the end of the report acknowledging that any false statements may result in sanctions by the director and verifying:

(i) Who performed the exam;

(ii) Who dictated the report; and

(iii) The accuracy of the report content.

(b) The insurer must forward a copy of the signed report to the attending physician or authorized nurse practitioner within 72 hours of the insurer's receipt of the report.

(11) Request for Additional Exams.

(a) When the insurer has obtained the three IMEs allowed under this rule and wants to require the worker to attend an additional IME, the insurer must first request authorization from the director. Insurers that fail to request authorization from the director may be assessed a civil penalty. The process for requesting authorization is:

(A) The insurer must submit a request for authorization to the director by using Form 2333, "Insurer's Request for Director Approval of an Additional Independent Medical Examination." The insurer must send a copy of the request to the worker and the worker's attorney, if any; and

(B) The director will review the request and determine if additional information from the insurer or the worker is necessary. Upon receiving a written request for additional information from the director, the parties have 14 days to respond. If the parties do not provide the requested information, the director will issue an order approving or disapproving the request based on available information.

(b) To determine whether to approve or deny the request for an additional IME, the director may consider, but is not limited to, whether:

(A) An IME involving the same discipline(s) or review of the same condition has been completed within the past six months.

(B) There has been a significant change in the worker's condition.

(C) There is a new condition or compensable aspect introduced to the claim.

(D) There is a conflict of medical opinions about a worker's medical treatment, medical services, impairment, stationary status, or other issues critical to claim processing or benefits.

(E) The IME is requested to establish preponderance for medically stationary status.

(F) The IME is medically harmful to the worker.

(G) The IME requested is for a condition for which the worker has sought treatment or services, or the condition has been included in the compensable claim.

(c) Any party who disagrees with the director's order approving or disapproving a request for an additional IME may request a hearing by the Hearings Division of the Workers' Compensation Board under ORS 656.283 and OAR chapter 438.

(12) Other Exams — Not Considered IMEs. The following exams are not considered IMEs and do not require approval as outlined in section (11) of this rule:

(a) An exam, including a closing exam, requested by the worker's attending physician or authorized nurse practitioner;

(b) An exam requested by the director;

(c) An elective surgery consultation requested under OAR 436-010-0250(3);

(d) An exam of a permanently totally disabled worker required under ORS 656.206(5);

(e) A closing exam that has been arranged by the insurer at the attending physician's or authorized nurse practitioner's request; and

(f) An exam requested by the managed care organization (MCO) for the purpose of clarifying or refining a plan for continuing medical services as provided under the MCO's contract.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260, 656.264

Hist.: WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-1999(Temp), f. & cert. ef. 2-11-99 thru 8-10-99; WCD 7-1999, f. & cert. ef. 4-28-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 4-2007(Temp), f. & cert. ef. 6-7-07 thru 12-3-07; WCD 9-2007, f. 11-1-07, cert. ef. 12-4-07; 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 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 2-2013, f. 3-11-13, cert. ef. 4-1-13; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0270**
**Insurer's Rights and Duties**

(1) Notifications.

(a) Immediately following receipt of notice or knowledge of a claim, the insurer must notify the worker in writing about how to receive medical services for compensable injuries.

(b) Within 10 days of any change in the status of a claim, (e.g., acceptance or denial of a claim, or a new or omitted medical condition), the insurer must notify the attending physician or authorized nurse practitioner, if known, and the MCO, if any.

(c) In disabling and nondisabling claims, immediately following notice or knowledge that the worker is medically stationary, the insurer must notify the worker and the attending physician or authorized nurse practitioner in writing which medical services remain compensable. This notice must list all benefits the worker is entitled to receive under ORS 656.245(1)(c).

(d) When the insurer establishes a medically stationary date that is not based on the findings of an attending physician or authorized nurse practitioner, the insurer must notify all medical service providers of the worker's medically stationary status. For all injuries occurring on or after October 23, 1999, the insurer must pay all medical service providers for services rendered until the insurer provides notice of the medically stationary date to the attending physician or authorized nurse practitioner.

(2) Medical Records Requests.

(a) Insurers may request relevant medical records, using Form 2476, "Request for Release of Medical Records for Oregon Workers' Compensation Claim," or a computer-generated equivalent of Form 2476, with "signature on file" printed on the worker's signature line, provided the insurer maintains a worker-signed original of the release form.

(b) Within 14 days of receiving a request, the insurer must forward all relevant medical information to return-to-work specialists, vocational rehabilitation organizations, or new attending physician or authorized nurse practitioner.

(3) Pre-authorization. Unless otherwise provided by an MCO, an insurer must respond in writing within 14 days of receiving a medical provider's written request for preauthorization of diagnostic imaging studies, other than plain film X-rays. The response must include whether the service is pre-authorized or not pre-authorized.

(4) Insurer's Duties under MCO Contracts.

(a) Insurers who enter into an MCO contract under OAR 436-015, must notify the affected employers of the following:

(A) The names and addresses of all MCO panel providers within the employer's geographical service area(s);

(B) How workers can receive compensable medical services within the MCO;

(C) How workers can receive compensable medical services by non-panel providers; and

(D) The geographical service area governed by the MCO.

(b) Insurers under contract with an MCO must notify any newly insured employers as specified in subsection (4)(a) of this rule no later than the effective date of coverage.

(c) When the insurer is enrolling a worker in an MCO, the insurer must provide the name, address, and telephone number of the worker and, if represented, the name of the worker's attorney to the MCO.

(d) When the insurer is enrolling a worker in an MCO, the insurer must simultaneously provide written notice to the worker, the worker's representative, all medical providers, and the MCO of enrollment. To be considered complete, the notice must:

(A) Provide the worker a written list of the eligible attending physicians within the relevant MCO geographic service area or provide a Web address to access the list of eligible attending physicians. If the notice does not include a written list, then the notice must also:

(i) Provide a telephone number the worker may call to ask for a written list; and

(ii) Tell the worker that he or she has seven days from the mailing date of the notice to request the list;

(B) Explain how the worker may obtain the names and addresses of the complete panel of MCO medical providers;

(C) Advise the worker how to obtain medical services for compensable injuries within the MCO. This includes whether the worker:

(i) Must to change attending physician or authorized nurse practitioner to an MCO panel provider, or

(ii) May continue to treat with the worker's current attending physician or authorized nurse practitioner;

(D) Explain how the worker can receive compensable medical treatment from a "come-along" provider;

(E) Advise the worker of the right to choose the MCO when more than one MCO contract covers the worker's employer, except when the employer provides a coordinated health care program. For the purpose of this rule, "coordinated health care program" means an employer program providing coordination of a separate policy of group health insurance coverage with the medical portion of workers' compensation coverage, for some or all of the employer's workers, which provides the worker with health care benefits even if a worker's compensation claim is denied; and

(F) Notify the worker of his or her right to appeal MCO decisions and provide the worker with the title, address, and telephone number of the contact person at the MCO responsible for ensuring the timely resolution of complaints or disputes.

(e) When an insurer enrolls a worker in an MCO before claim acceptance, the insurer must inform the worker in writing that the insurer will pay for certain medical services even if the claim is denied. Necessary and reasonable medical services that are not otherwise covered by health insurance will be paid until the worker receives the notice of claim denial or until three days after the denial is mailed, whichever occurs first.

(f) When a worker who is not yet medically stationary must change medical providers because an insurer enrolled the worker in an MCO, the insurer must notify the worker of the right to request review before the MCO if the worker believes the change would be medically detrimental.

(g) If, at the time of MCO enrollment, the worker's medical service providers are not members of the MCO and do not qualify as "come-along providers," the insurer must notify the worker and providers regarding provisions of care under the MCO contract, including continuity of care as provided by OAR 436-015-0035(4).

(h) Within seven days of receiving a dispute regarding an issue that should be processed through the MCO dispute resolution process and a copy has not been sent to the MCO, the insurer must:

(A) Send a copy of the dispute to the MCO; or

(B) If the MCO does not have a dispute resolution process for that issue, notify the parties in writing to seek administrative review before the director.

(i) The insurer must notify the MCO within seven days of receiving notification of the following:

(A) Any changes to the worker's or worker's attorney's name, address, or telephone number;

(B) Any requests for medical services from the worker or the worker's medical provider; or

(C) Any request by the worker to continue treating with a "come-along" provider.

(j) Insurers under contract with MCOs must maintain records including, but not limited to:

(A) A listing of all employers covered by MCO contracts;

(B) The employers' WCD employer numbers;

(C) The estimated number of employees governed by each MCO contract;

(D) A list of all workers enrolled in the MCO; and

(E) The effective dates of such enrollments.

(k) When the insurer is disenrolling a worker from an MCO, the insurer must simultaneously provide written notice of the disenrollment to the worker, the worker's representative, all medical service providers, and the MCO. The insurer must mail the notice no later than seven days before the date the worker is no longer subject to the contract. The notice must tell the worker how to obtain compensable medical services after disenrollment.

(l) When an MCO contract expires or is terminated without renewal, the insurer must simultaneously provide written notice to the worker, the worker's representative, all medical service providers, and the MCO that the worker is no longer subject to the MCO contract. The notice must be mailed no later than three days before the date the contract expires or terminates. The notice must tell the worker how to obtain compensable medical services after the worker is no longer subject to the MCO contract.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260, 656.264

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0801, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0100; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-000; WCD 3-2000, f. 4-3-00, cert. ef. 4-21-00; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0280**
**Determination of Impairment/Closing Exams**

(1) When a worker has received compensation for time loss or it is likely the worker has permanent impairment and becomes medically stationary, the attending physician must complete a closing exam or refer the worker to a consulting physician for all or part of the closing exam. If the worker is under the care of an authorized nurse practitioner or a type B attending physician, other than a chiropractic physician, the provider must refer the worker to a type A attending physician to do a closing exam.

(2) The closing exam must be completed under OAR 436-030 and 436-035 and Bulletin 239. (See Appendix A "Matrix for Health Care Provider Types".)

(3) When the attending physician completes the closing exam, the attending physician has 14 days from the medically stationary date to send the closing report to the insurer. When the attending physician does not complete the closing exam, the attending physician must arrange, or ask the insurer to arrange, a closing exam with a consulting physician within seven days of the medically stationary date.

(4) When an attending physician or authorized nurse practitioner requests a consulting physician to do the closing exam, the consulting physician has seven days from the date of the exam to send the report to the attending physician for concurrence or objections. Within seven days of receiving the closing exam report, the attending physician must state in writing whether the physician concurs with or objects to all or part of the findings of the exam, and send the concurrence or objections with the report to the insurer.

(5) The attending physician must specify the worker's residual functional capacity if:

(a) The attending physician has not released the worker to the job held at the time of injury because of a permanent work restriction caused by the compensable injury, and

(b) The worker has not returned to the job held at the time of injury, because of a permanent work restriction caused by the compensable injury.

(6) Instead of specifying the worker's residual functional capacity under section (5) of this rule, the attending physician may refer the worker for:

(a) A second-level physical capacities evaluation (see OAR 436-009-0060) when the worker has not been released to return to the job held at the time of injury, has not returned to the job held at the time of injury, has returned to modified work, or has refused an offer of modified work; or

(b) A work capacities evaluation (see OAR 436-009-0060) when there is a question of the worker's ability to return to suitable and gainful employment. The provider may also be required to specify the worker's ability to perform specific job tasks.

(7) When the insurer issues a major contributing cause denial on an accepted claim and the worker is not medically stationary:

(a) The attending physician must do a closing exam or refer the worker to a consulting physician for all or part of the closing exam; or

(b) An authorized nurse practitioner or a type B attending physician, other than a chiropractic physician, must refer the worker to a type A attending physician for a closing exam.

(8) The closing report must include all of the following:

(a) Findings of permanent impairment.

(A) In an initial injury claim, the closing report must include objective findings of any permanent impairment that 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.

(B) In a new or omitted condition claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

(C) In an aggravation claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

(D) In an occupational disease claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

(b) Findings documenting permanent work restrictions.

(A) 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.

(B) In an initial injury claim, the closing report must include objective findings documenting 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.

(C) In a new or omitted condition claim, the closing report must include objective findings documenting 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.

(D) In an aggravation claim, the closing report must include objective findings documenting 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.

(E) In an occupational disease claim, the closing report must include objective findings documenting 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 sequel of an accepted occupational disease.

(c) A statement regarding the validity of an impairment finding is required in the following circumstances:

(A) If the examining physician determines that a finding of impairment is invalid, the closing report must include a statement that identifies the basis for the determination that the finding is invalid.

(B) If the examining physician determines that a finding of impairment is valid but the finding is not addressed by any applicable validity criteria under Bulletin 239, the closing report must include a statement that identifies the basis for the determination that the finding is valid.

(C) If the examining physician chooses to disregard applicable validity criteria under Bulletin 239 because the criteria are medically inappropriate for the worker, the closing report must include a statement that describes why the criteria would be inappropriate.

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

Stat. Auth.: ORS 656.726(4) & 656.245(2)(b)

Stats. Implemented: ORS 656.245 & 656.252

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0601, 5-1-85; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0080; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; 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 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 12-2007(Temp), f. 12-14-07, cert. ef. 1-2-08 thru 6-29-08; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; 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 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0290**
**Medical Care After Medically Stationary**

(1) A worker is found medically stationary when no further material improvement would reasonably be expected from medical treatment or the passage of time. Medical services after a worker's condition is medically stationary are compensable only when services are:

(a) Palliative care under section (2) of this rule;

(b) Curative care under sections (3) and (4) of this rule;

(c) Provided to a worker who has been determined permanently and totally disabled;

(d) Prescription medications;

(e) Necessary to administer or monitor administration of prescription medications;

(f) Prosthetic devices, braces, or supports;

(g) To monitor the status of, to replace, or to repair prosthetic devices, braces, and supports;

(h) Provided under an accepted claim for aggravation;

(i) Provided under Board's Own Motion;

(j) Necessary to diagnose the worker's condition; or

(k) Life-preserving modalities similar to insulin therapy, dialysis, and transfusions.

(2) Palliative Care.

(a) Palliative care means that medical services are provided to temporarily reduce or moderate the intensity of an otherwise stable medical condition. It does not include those medical services provided to diagnose, heal, or permanently alleviate or eliminate a medical condition. Palliative care is compensable when the attending physician prescribes it and it is necessary to enable the worker to continue current employment or a vocational training program. Before palliative care can begin, the attending physician must submit a written palliative care request to the insurer for approval. The request must:

(A) Describe any objective findings;

(B) Identify the medical condition for which palliative care is requested by the appropriate ICD diagnosis;

(C) Detail a treatment plan which includes the name of the provider who will provide the care, specific treatment modalities, and frequency and duration of the care, not to exceed 180 days;

(D) Explain how the requested care is related to the compensable condition; and

(E) Describe how the requested care will enable the worker to continue current employment, or a current vocational training program, and the possible adverse effect if the care is not approved.

(b) Palliative care may begin after the attending physician submits the request to the insurer. If the insurer approves the request, palliative care services are payable from the date service begins. However, if the request is ultimately disapproved, the insurer is not liable for payment of the palliative care services.

(c) Insurers must date stamp all palliative care requests upon receipt. Within 30 days of receiving the request, the insurer must send written notice to the attending physician, worker, and worker's attorney approving or disapproving the request.

(d) If the insurer disapproves the request, the insurer must explain the reason why in writing. Reasons to disapprove a palliative care request may include:

(A) The palliative care services are not related to the accepted condition(s);

(B) The palliative care services are excessive, inappropriate, or ineffectual; or

(C) The palliative care services will not enable the worker to continue current employment or a current vocational training program.

(e) When the insurer disapproves the palliative care request, the attending physician or the worker may request administrative review before the director under OAR 436-010-0008. The request for review must be within 90 days from the date of the insurer's disapproval notice. In addition to information required by OAR 436-010-0008, if the request is from the attending physician, it must include:

(A) A copy of the original request to the insurer; and

(B) A copy of the insurer's response.

(f) If the insurer fails to respond to the request in writing within 30 days, the attending physician or worker may request approval from the director within 120 days from the date the request was first submitted to the insurer. When the attending physician requests approval from the director, the physician must include a copy of the original request and may include any other supporting information.

(g) Subsequent requests for palliative care are subject to the same process as the initial request; however, the insurer may waive the requirement that the attending physician submit a supplemental palliative care request.

(3) Curative Care. Curative medical care is compensable when the care is provided to stabilize a temporary and acute waxing and waning of symptoms of the worker's condition.

(4) Advances in Medical Science. The director must approve curative care arising from a generally recognized, nonexperimental advance in medical science since the worker's claim was closed that is highly likely to improve the worker's condition and that is otherwise justified by the circumstances of the claim. When the attending physician believes that curative care is appropriate, the physician must submit a written request for approval to the director. The request must:

(a) Describe any objective findings;

(b) Identify the appropriate ICD diagnosis (the medical condition for which the care is requested);

(c) Describe in detail the advance in medical science that has occurred since the worker's claim was closed that is highly likely to improve the worker's condition;

(d) Provide an explanation, based on sound medical principles, as to how and why the care will improve the worker's condition; and

(e) Describe why the care is otherwise justified by the circumstances of the claim.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.245

Hist.: WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 16-1990(Temp), f. & cert. ef. 8-17-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0041; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0300**

**Requesting Exclusion of Medical Treatment from Compensability**

If a worker or insurer believes that any medical treatment is unscientific, unproven as to its effectiveness, outmoded, or experimental, either party may initiate a request for exclusion of the medical treatment from compensability under ORS 656.245(3). The request must include documentation on why the medical treatment should be excluded from compensability for workers' compensation claims. The director will request advice from the licensing boards of practitioners that might be affected and the Medical Advisory Committee. The director will issue an order and may adopt a rule declaring the treatment to be noncompensable. The decision of the director is appealable under ORS 656.704. Request for administrative review of an individual worker's treatment under ORS 656.327 does not initiate review under this process. Excluded treatments are listed in OAR 436-009-0010.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245

Hist.: WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0045; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0330**

**Medical Arbiters and Physician Reviewers**

(1) The director will establish and maintain a list of arbiters. The director will appoint a medical arbiter or a panel of medical arbiters from this list under ORS 656.268.

(2) The director will establish and maintain a list of physician reviewers. The director will appoint an appropriate physician or a panel of physicians from this list to review medical treatment or medical services disputes under ORS 656.245, 656.260, and 656.327.

(3) When a worker is required to attend an examination under this rule, the director will provide notice of the examination to the worker and all affected parties. The notice will inform all parties of the time, date, location, and purpose of the examination. Examinations will be at a place reasonably convenient to the worker, if possible.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.268, 656.325 & 656.327

Hist.: WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0047; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12; WCD 2-2013, f. 3-11-13, cert. ef. 4-1-13; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0335**

**Monitoring and Auditing Medical Providers**

(1) The director may monitor and conduct periodic audits of medical providers to ensure compliance with ORS chapter 656 and chapter 436 of the administrative rules.

(2) All records maintained or required to be maintained must be disclosed upon request of the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.254, 656.745

Hist.: WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0101; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; Renumbered from 436-010-0260 by WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

**436-010-0340**

**Sanctions and Civil Penalties**

(1) If the director finds any medical provider in violation of the medical reporting requirements established under ORS 656.245, 656.252, 656.254(1), or 656.325, or OAR 436-009 or 436-010, the director may impose one or more of the following sanctions:

(a) Reprimand by the director;

(b) Non-payment, reduction, or recovery of fees in part or whole for medical services provided;

(c) Referral to the appropriate licensing board;

(d) Civil penalty not to exceed $1,000 for each occurrence. In determining the amount of penalty to be assessed, the director will consider:

(A) The degree of harm inflicted on the worker or the insurer;

(B) Whether there have been previous violations; and

(C) Whether there is evidence of willful violations; or

(e) A penalty of $100 for each violation of ORS 656.325(1)(c)(C).

(2) If the medical provider fails to provide information under OAR 436-010-0240 within fourteen days of receiving a request sent by certified mail or fax, penalties under this rule or OAR 436-015-0120 may be imposed.

(3) The director may impose a penalty of forfeiture of fees and a fine not to exceed $1,000 for each occurrence on any medical service provider who, under ORS 656.254, and 656.327, has been found to:

(a) Fail to comply with the medical rules;

(b) Provide medical services that are excessive, inappropriate, or ineffectual; or

(c) Engage in any conduct demonstrated to be dangerous to the health or safety of a worker.

(4) If the conduct as described in section (3) of this rule is found to be repeated and willful, the director may declare the medical provider ineligible for reimbursement for treating workers' compensation patients for a period not to exceed three years.

(5) A medical provider whose license has been suspended or revoked by the licensing board for violations of professional ethical standards may be declared ineligible for reimbursement for treating workers' compensation patients for a period not to exceed three years. A certified copy of the revocation or suspension order will be prima facie justification for the director's order.

(6) If a financial penalty is imposed on the medical provider for violation of these rules, the provider may not seek recovery of the penalty fees from the worker.

(7) If an insurer or worker believes sanctions under sections (1) or (2) of this rule are not appropriate, either may submit a complaint in writing to the director.

(8) If the director finds an insurer in violation of the notification provisions of OAR 436-010 limiting medical services, the director may order the insurer to reimburse any affected medical providers for services provided until the insurer complies with the notification requirement. Any penalty will be limited to the amounts listed in section (9) of this rule.

(9) If the director finds any insurer in violation of statute, OAR 436-009, OAR 436-010, or an order of the director, the insurer may be subject to penalties under ORS 656.745 of not more than $2,000 for each violation or $10,000 in the aggregate for all violations within any three month period. Each violation, or each day a violation continues, will be considered a separate violation.

(10) The director may subject a worker who fails to meet the requirements in OAR 436-010-0265(9) to a $100 penalty per occurrence under ORS 656.325, to be deducted from future benefits.

Stat. Auth.: ORS 656726(4)
Stats. Implemented: ORS 656.245, 656.254 & 656.745
Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0901, 5-1-85 WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90, Renumbered from 436-010-0110(3)(4) & (7); WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90;WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0130; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-990; WCD 3-2000, f. 4-3-00, cert. ef. 4-21-00; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15

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## Department of Corrections
## Chapter 291

**Rule Caption:** Program for Inmates to Obtain Driver License or Identification Card Prior to Release
**Adm. Order No.:** DOC 10-2015
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-21-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 291-207-0100
**Subject:** Need for the Rule(s): ORS 802.087 requires DMV and DOC to jointly adopt rules and enter into interagency agreements necessary to assist offenders in obtaining a driver license or identification card prior to an offender's release from a correctional institution. The current interagency agreement expires on June 30, 2015. In an effort to increase efficiencies in the program, DMV and DOC met to determine if there were changes to the agreement or the rules that should be made. A couple of small changes were identified that needed to be made in rule as follows:

1. Refer to DMV's administrative rule regarding the renewal of a driver license or identification card rather than stating that the card can be renewed up to 14 months in advance. This change is proposed because DMV's policy regarding renewal is being evaluated and that time period may change shortly after these amended rules take effect.

2. Allow DOC to complete an application packet for an eligible inmate up to 180 days in advance of release date rather than 90 days. This is an effort to be able to provide the service to more inmates.

3. Remove the requirement that a photo of the inmate that contains the state identification (SID) number be part of the application packet. This is because DMV reviews the photo electronically at the time of the initial screening of the inmate's eligibility.

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

**291-207-0100**
**DMV/DOC Program for an Inmate Obtaining a Driver License or Identification Card Prior to Release**

(1) The Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV) and the Oregon Department of Corrections (DOC) have established, through interagency agreement, the following program to help an inmate obtain a driver license or identification card prior to his or her release from custody.

(2) For purposes of this rule, the term "inmate" means any person under the supervision of the DOC and who is not on parole, probation or post-prison supervision status.

(3) Notwithstanding OAR 735-062-0016, DMV may issue a renewal or replacement driver license or an identification card containing the last photograph of the inmate on file with DMV. The photograph on file must not be older than nine years and two months. DMV will issue as follows:

(a) A replacement driver license to an inmate whose driving privileges are valid or are reinstated at the time of issuance;

(b) A renewal driver license to an inmate whose driving privileges are valid or are reinstated at the time of issuance and whose driver license is within the allotted time for early renewal as described in OAR 735-062-0090(4) or has been expired for less than one year; or

(c) An original, renewal or replacement identification card to an inmate:

(A) Who is not eligible for driving privileges under sections (4), (7) or (8) of this rule;

(B) Whose previous driver license has been expired for more than one year;

(C) Whose driving privileges are suspended, revoked or cancelled; or

(D) Who has never been issued or does not currently qualify for a driver license under ORS 807.040.

(4) DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS), to determine if the inmate's driving privileges are suspended, revoked, cancelled or otherwise not valid in any other jurisdiction. An inmate whose driving privileges are not valid in any other jurisdiction is not eligible to replace or renew driving privileges in Oregon.

(5) DOC may complete an application packet for each eligible inmate within no more than 180 days prior to the inmate's date of release from DOC custody. The application packet must include:

(a) A completed Valid with Previous Photo DL/ID Card (VWPP) Application, DMV Form 735-171C, signed by the inmate. The application must include the inmate's Social Security Number (SSN). DMV must verify, or have previously verified, the SSN with the Social Security Administration, as required by OAR 735-062-0005;

(b) Proof of legal name as required by OAR 735-062-0014;

(c) Proof of legal presence as required by OAR 735-062-0015 and the interagency agreement; and

(d) Proof of date of birth and identity as required by OAR 735-062-0020.

(6) On the application DOC must certify:

(a) That the copies of the documents submitted to meet the requirements of section (5) of this rule are true copies of the original documents and that the documents pertain to the inmate for whom DOC is submitting the VWPP application; and

(b) That the inmate will be living in Oregon when released and the address provided on the application meets the requirements for residence or mailing address as outlined in the interagency agreement.

(7) An inmate is not eligible for driving privileges, under ORS 807.060(4) or (5), and DMV will not replace or renew a driver license, if on the VWPP Application the inmate:

(a) Answers yes to the question "Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?";

(b) Answers yes to the question "Do you have any physical or mental conditions or impairments that affect your ability to drive safely?"; or

(c) Answers yes to the question "Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?"

(8) An inmate who is eligible to renew his or her driving privileges, and is or will be 50 years of age or older at the time his or her driving privileges expire, must meet the requirements of OAR 735-062-0060. As the inmate will not be at a DMV field office for the vision screening, DOC must provide a vision examination form, Certificate of Vision, DMV Form 735-24, completed by a licensed ophthalmologist or optometrist with the VWPP application. If no Certificate of Vision form is included or the inmate does not meet the vision standards set forth in OAR 735-062-0050, the inmate is only eligible for an identification card.

(9) When an inmate's driving privileges are valid (not suspended, revoked, cancelled or expired more than one year) the inmate must surrender driving privileges in order to be eligible for an identification card. A completed Surrender of Driving Privilege(s), DMV Form 735-7206, must be included with the VWPP application of any inmate who is surrendering driving privileges. A person who surrenders driving privileges must pass all

tests and pay all fees associated with an original driver license to regain driving privileges at a later date.

(10) DOC will pay the fee listed in ORS 807.370 or 807.410, as appropriate, for each inmate issued a driver license or identification card in a manner outlined in the interagency agreement.

(11) When an inmate's driver license or identification card issued pursuant to this rule is renewed or replaced, he or she must provide proof of citizenship or permanent legal residency as required by OAR 735-062-0015, unless DMV records show the person has previously provided such proof.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 802.087
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 802.087
Hist.: DOC 12-2012, f. 12-27-12, cert. ef. 1-1-13; DOC 10-2015, f. & cert. ef. 8-21-15

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**Rule Caption:** Programming Levels of Intensive Management Unit Inmates
**Adm. Order No.:** DOC 11-2015
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-21-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 291-055-0020
**Rules Repealed:** 291-055-0020(T)
**Subject:** This rule modification to necessary to clarify that an inmate assigned to the Intensive Management Unit (IMU) who continues to present a serious management concern may be retained in an IMU or IMU status cell at custody level 5. Other changes are necessary to clarify what personal property is permitted within IMU
**Rules Coordinator:** Janet R. Worley—(503) 945-0933

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

(1) Program Level Criteria:

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

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

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

(c) Demotions:

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

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

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

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

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

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

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

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

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

(2) Program Level Services and Activities: Services, activities, programs, incentives, and property may vary based on the architecture of the facility and individual needs of each assigned inmate. An inmate's adjustment and behavior while housed in the Intensive Management Unit will determine the inmate's service and activities program level. The schedule for programs and services are as follows:

(a) Level One basic services provided to Intensive Management Unit (IMU) inmates:

(A) Correspondence and photos (excluding publications): As received through the mail after assignment to level one.

(B) Commissary: Envelopes ordered every two weeks.

(C) Pen and paper.

(D) Legal services: As required in accordance with the department's rule on Legal Affairs (Inmate), OAR 291-139. Inmates are authorized to possess legal materials for active and pending cases in accordance with OAR 291-117-0100, Authorized Legal Property.

(E) Religious services and materials: As requested and meeting security requirements.

(F) Personal hygiene/shower: Three times per week.

(G) State issued personal care items (soap, tooth powder, toothbrush, comb, toilet paper).

(H) Bedding: One mattress, one pillow, one pillow case, two sheets, one towel, and blanket(s) as needed.

(I) Clothing: One set of undergarments, coverall and footwear.

(J) Address books.

(K) Treatment/Programming/Educational Services: As deemed appropriate to the individual treatment program and meeting security requirements.

(L) Library: Up to three paperback books on a scheduled exchange basis.

(b) Level Two services and activities available to IMU inmates: In addition to level one basic services:

(A) Recreation: 40 minutes per day, five days per week.

(B) Commissary: $25 worth of commissary items ordered every two weeks.

(C) Radio and headphones.

(D) One approved property storage container.

(E) Personal care items on the IMU commissary list from the inmate's personal property or purchased after placement.

(F) One pair of personal shower shoes.

(G) Educational material, treatment or psychological service program materials: As requested, approved and meeting security requirements.

(c) Level Three services and activities available to IMU inmates: In addition to level two services:

(A) Commissary: $30 of commissary items ordered every two weeks.

(B) One pair of personal shoes.

(C) Personal books, stored appropriately.

(D) Personal property on the IMU commissary list.

(G) One photo album.

(F) Telephone access one time per week up to 40 minutes.

(G) Work assignments.

(d) Level Four services and activities available to IMU inmates: In addition to level three services:

(A) Commissary: $40 worth of commissary items ordered every two weeks.

(B) Personal property: No more than two approved storage containers.

(e) Level Five services and activities available to IMU inmates in addition to level four services:

(A) Commissary: $50 worth of commissary items ordered every two weeks.

(B) Telephone access up to one hour per day.

(C) Televisions purchased through commissary or issued from the inmate's personal property.

(D) Personal electronic players as approved.

(3) Immediately following any action of self destruction, a medical or psychological services staff member will be consulted by the IMU Manager to determine if the inmate should be recommended for transfer to mental health special housing.

(4) IMU status inmates will be permitted to leave their cell as appropriate to their program level for visits, exercise, showers, medical, dental, or mental health services, hearings, interviews, or other reasons as authorized by the IMU Manager.

(a) The Assistant Superintendent of Security will assign escort supervision as deemed appropriate.

(b) IMU inmates will not be permitted to leave their cells without approval from the IMU Manager unless previously scheduled to do so for program participation. The inmate will be in restraints at all times while being escorted inside and outside the unit. Routine staff interviews may be accomplished at the inmate's cell.

(5) The IMU Manager or designee will conduct a tour of the Intensive Management Unit at least once per shift. Inmates may address questions to the IMU Manager at this time.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14; DOC 4-2015(Temp), f. & cert. ef. 3-20-15 thru 9-15-15; DOC 11-2015, f. & cert. ef. 8-21-15

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**Rule Caption:** Video Interactive Calls and Phone Calls for Inmates in DOC Facilities
**Adm. Order No.:** DOC 12-2015
**Filed with Sec. of State:** 8-31-2015
**Certified to be Effective:** 8-31-15
**Notice Publication Date:** 7-1-2014
**Rules Adopted:** 291-130-0025
**Rules Amended:** 291-130-0005, 291-130-0006, 291-130-0011, 291-130-0016
**Rules Ren. & Amend:** 291-130-0020 to 291-130-0026
**Subject:** The department has expanded its telephone system for inmates to include video interactive calls (VIP) calls. These rules are necessary to establish policy and procedures governing the use of VIP calls. Other changes are necessary to reflect organizational and operational changes within the department.
**Rules Coordinator:** Janet R. Worley—(503) 945-0933

**291-130-0005**
**Authority, Purpose, and Policy**

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish policy and procedures governing the use of the inmate telephone system.

(3) Policy: The department encourages productive relationships between inmates and their families and recognizes telephone services are a positive means to strengthen ties and increase the likelihood of success upon release.

(a) It is the policy of the Department of Corrections to allow inmates to make telephone calls in accordance with the procedures outlined in this rule.

(b) It is the policy of the Department of Corrections that video interactive phone calls are a part of the inmate telephone system, and such calls are governed by the same policy and procedures as telephone calls.

(c) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit, promote, facilitate, and encourage authorized use of telephone systems between inmates and their families, friends, and others in Department of Corrections facilities.

(d) When authorized, use of the inmate telephone system in a Department of Corrections facility is permitted neither as a matter of right nor as a privilege of the inmate or the inmate's contact party; rather, use of the telephone system in Department of Corrections facilities is permitted by the department when it furthers the inmate's correctional planning and the department's correctional goals and mission and is consistent with the safe, secure, and orderly management and operation of the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

**291-130-0006**
**Definitions**

(1) Access to Inmate Telephone System: An inmate's use of a personal identification number (PIN) and validated voice recognition to connect to the inmate telephone system.

(2) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations. In these rules, the functional unit manager is the superintendent of an institution or the Inspector General.

(3) Inmate Telephone System: The system authorized by the Department of Corrections to facilitate inmate telephone calls and video interactive phone (VIP) calls.

(4) Legal Telephone Calls: Telephone calls between an inmate and his/her attorney or the attorney's documented representative(s), legal aid bureaus, or other organizations as deemed appropriate by the department.

(5) Media Representatives:

(a) Persons whose principal employment is with an accredited media organization;

(b) Unaffiliated persons who produce credentials or other written documentation from an accredited media organization evidencing that the media organization has contracted with the person to purchase his/her completed work or project;

(c) Unaffiliated persons who are affiliated with a department contractor or volunteer in connection with a department program or service; or

(d) Authors of books who produce credentials or other written documentation that a commercial publisher has contracted to purchase their completed work/project.

(6) Officer in Charge: That person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with policy, rule or procedure during periods when the functional unit manager or officer of the day are not readily available.

(7) Personal Identification Number (PIN): An assigned number used by an inmate to access the inmate telephone system.

(8) Prepaid Call: A telephone call placed by an inmate using funds paid in advance from a telephone account.

(9) Telephone Services: Telephone calls, VIP calls, and voice messages afforded to inmates through the inmate telephone system.

(10) Third Party VIP Call: Any VIP call wherein the original called party logs out of the established session and provides another party with a different IP address and sufficient information to log into the established VIP call. This includes any communication between the inmate and a third party utilizing the IP address.

(11) Three-Way Call: Any call that uses an intermediary call to bridge communication to a third party. This includes any communication between the inmate or the original called party with a third party not in the same location.

(12) Unaffiliated persons: Freelance writers, independent filmmakers, producers, and other persons who do not meet the definition of media representatives.

(13) Video Interactive Phone (VIP) Call: A call that has video interactive capabilities in which the parties are able to see and hear one another.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

**291-130-0011**
**Operation of Inmate Telephones**

(1) Inmates shall provide their personal identification number (PIN) and validated voice recognition to gain access to the inmate telephone system.

(a) Inmates are responsible to maintain the security of their access information.

(b) An inmate may not use another inmate's access information.

(c) The department is not responsible for theft, loss, or costs related to an inmate lending his/her access information or failing to provide for its safekeeping.

(d) An inmate's PIN will be terminated if it has been lost, stolen, or if in the sole judgment of the functional unit manager or his/her designee, the PIN has been used by the inmate or another person to:

(A) Engage in activity that violates department rule, state or federal law; or

(B) Engage in other activity that poses a threat or is detrimental to the security, safety, health, good order or discipline within a Department of Corrections facility, inmate rehabilitation, or that facilitates criminal activity.

(e) If an inmate's PIN is terminated, the department will issue the inmate a new PIN. The department may assess the inmate a PIN replacement fee.

(2) Prepaid Calls: The department will establish a telephone account for each inmate.

(a) Inmates may transfer funds from their trust account to their telephone account. Availability of funds in the inmate's trust account will be verified before any transfer of funds to the telephone account.

(b) An inmate shall address any issues regarding funds in his/her telephone account directly to the inmate telephone service provider.

(c) Prepaid calls will disconnect when funds in an inmate's telephone account have been depleted.

(d) Inmates may obtain their individual telephone account balance through the inmate telephone system.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

**291-130-0016**
**General Provisions for Inmate Telephones**

(1) All calls must be placed as collect or prepaid. Only collect or prepaid calls can be made from telephones designated for inmate use.

(2) The functional unit manager or designee has the authority to restrict telephone calls by an inmate if the safety of the public would be involved, or the security of the facility, or safety and welfare of any person would be jeopardized.

(3) Inmates shall not participate in three way calls or any form of call forwarding. An inmate may be assessed a service fee from the inmate telephone service provider if it is verified he/she has participated in a three-way call or any form of call forwarding.

(4) Inmates shall not place charges to third party numbers, motels, hotels, places of business, credit cards or to telephone company calling card numbers.

(5) If the telephone call cannot be completed because no one answers or the line is busy, the inmate shall hang up and attempt another call at another time.

(6) Inmates shall not loiter in the surrounding area where telephones are located.

(7) Only one inmate at a time shall be permitted access to a telephone. The inmate who initiates a call is the only person authorized to converse with the contact party during that call.

(8) Inmates may be required to sign up on the telephone log (CD755) to reserve a time to use a telephone in a housing unit or activity area when there are a large number of inmates who want access to a telephone and there are a limited number of telephones.

(9) A set of Oregon telephone directories for major cities shall be located in the facility library.

(10) Special Housing: Inmates in special housing may be allowed telephone services as established by the functional unit manager. Special housing includes administrative housing, disciplinary segregation, Intensive Management Unit, Death Row housing, mental health special housing, and facility infirmaries.

(a) Inmates in special housing may have restricted telephone services, and be allowed only emergency calls, legal calls as specified in OAR 291-130-0021, or other calls as authorized by the functional unit manager or designee.

(b) Inmates in mental health special housing may have limited access to telephones if the access interferes with the inmate's treatment.

(11) The department may prohibit an inmate from calling a particular person or phone number when requested by the person, or in the case of a minor child, by the child's parent or legal guardian.

(12) Telephone calls between inmates and staff, volunteers, or contractors; or calls between inmates and former staff, volunteers, or contractors are not allowed without express written authorization by the functional unit manager or designee.

(13) Other inmate telephone services or restrictions, not specifically addressed in this rule, may be implemented for safety and security reasons or as authorized by the functional unit manager.

(14) Inmates shall report all inmate phone repair issues as directed by the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(5); DOC 7-2002, f. & cert. ef 6-12-02; Renumbered from 291-130-0040, DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

**291-130-0025**
**Operation and General Provisions of VIP Calls**

(1) Inmates are required to provide their personal identification number (PIN) and comply with a validation process to gain access to the inmate telephone system to make VIP calls.

(2) The same provisions that apply to telephone calls as specified in OAR 291-130-0011 apply to VIP calls (security of PIN and access).

(3) Inmates are responsible to schedule VIP calls through the inmate telephone system via kiosks located throughout each institution.

(a) Accessibility to VIP calls will differ by institution given the uniqueness of each institution.

(b) Inmates will be allowed to make VIP calls during designated times based on a first-come, first-served basis to access their accounts with staff authorization.

(4) Inmates must place VIP calls as prepaid. The inmate telephone system does not allow collect VIP calls.

(5) The functional unit manager or designee has the authority to restrict or revoke VIP calls by an inmate if the safety of the public would be involved, or the security of the facility, or safety and welfare of any person would be jeopardized.

(6) If the inmate cannot complete the VIP call because the called party is not available or for other reasons, the inmate shall terminate the call and reschedule at another time.

(7) Inmates shall not loiter in the surrounding area where kiosks are located.

(8) Only one inmate at a time shall be permitted access to a VIP call. The inmate who initiates a VIP call is the only person authorized to converse with the contact party during that call. An inmate may be assessed a fee from the inmate telephone service provider if it is verified that more than one inmate participated in a VIP call.

(9) Family VIP Calls: The functional unit manager or designee, at their sole discretion, may authorize more than one inmate to participate in a VIP call to encourage and promote responsible familial relationships.

(10) Appropriate Clothing/Dress:

(a) Inmates must be properly attired consistent with standards set forth in OAR 291-123-0015(5) and the inmate handbook.

(b) The caller or contacted party is encouraged to wear clothing that is conservative in nature; e.g., clothing that is not unduly suggestive or form fitting. The caller or contacted party shall not display male or female genitalia, the pubic area or anus, or expose the female breasts.

(11) VIP calls between inmates and staff, volunteers, or contractors; or between inmates and former staff, volunteers, or contractors are not allowed without express written authorization by the functional unit manager or designee.

(12) Special Housing: Inmates in special housing are not allowed access to VIP calls, unless authorization is given by the functional unit manager. Special housing includes administrative housing, disciplinary segregation, Intensive Management Unit, Death Row housing, mental health special housing, and facility infirmaries.

(13) The department may prohibit an inmate from participating in a VIP call with a particular person or phone number when requested by the person, or in the case of a minor child, by the child's parent or legal guardian.

(14) Inmates shall not participate in VIP calls with two or more parties using different IP addresses during the same VIP call. An inmate may be assessed a service fee from the inmate telephone service provider if it is verified he/she has participated in a VIP call with participants using more than one IP address.

(15) Inmates shall not use VIP calls for interviews with media representatives or unaffiliated persons. Media representatives or unaffiliated persons may request an interview with an inmate in accordance with the department's rules on Media Access (OAR 291-204).

(16) Inmates shall not use VIP calls as an outlet for public performances to individuals or organizations.

(17) Neither the inmate or contact party may record, re-broadcast, reproduce, duplicate, copy, sell, trade, or resell either the audio or video of the VIP call.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 12-2015, f. & cert. ef. 8-31-15

**291 130 0026**
**Monitoring, Termination and Blocking of Telephone and VIP Calls**

(1) All telephone calls and VIP calls are subject to monitoring and recording by the department except for legal telephone calls.

(a) Directly above each group of monitored telephones, a sign shall be posted stating in English and Spanish, "Phone calls are subject to being monitored and recorded."

(b) Directly above each VIP kiosk, a sign shall be posted stating in English and Spanish, "VIP calls are monitored and recorded."

(2) An inmate's use of the inmate telephone system to engage in activity that is a violation of department rules, state, or federal law may result in disciplinary action and possible restriction of telephone services.

(3) The department may block access to phone numbers used to commit a crime or violate department rules, including any attempt to place a three-way call or use any form of call forwarding. The owner of a telephone number that has been blocked for participation in a three-way call or call forwarding may request an administrative review by writing to the Inspector General.

(4) An inmate's telephone services may be suspended by the functional unit manager or his/her designee, in his/her sole discretion, when the functional unit manager or designee has reason to believe the inmate has used or may use inmate telephone services to:

(a) Engage in activity that violates department rule, state or federal law; or

(b) Engage in other activity that poses a threat or is detrimental to the security, safety, health, good order or discipline within a Department of Corrections facility, inmate rehabilitation, facilitates criminal activity, or jeopardizes the safety and welfare of any person.

(c) The guidelines for suspension of VIP services for inmates and callers are found in Exhibit A. The functional unit manager or designee may consider mitigating or aggravating factors in administering a less or more severe sanction than indicated in the grid, including the issuance of a misconduct report for inmates.

(d) If the activity is deemed to be a severe violation by the inmate of department rules, state, or federal law, disciplinary action will result; and the inmate will be held accountable in accordance with the provisions of the inmate disciplinary rules (OAR 291-105).

(5) A "high alert" inmate under the management of the Security Threat Management Unit may have his/her telephone services or individual telephone calls suspended, restricted, or modified in accordance with OAR 291-069-0270, Management of High Alert Inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(3); DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; Renumbered from 291-130-0020, DOC 12-2015, f. & cert. ef. 8-31-15

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## Department of Energy
## Chapter 330

**Rule Caption:** Amending EIP rules to update application, technical review, pass-through and transfer fees.
**Adm. Order No.:** DOE 2-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 330-200-0040, 330-210-0040, 330-220-0040
**Subject:** Statute directs the Oregon Department of Energy to estimate the total cost of the energy incentive programs and set fees to recover the anticipated cost of administering and enforcing the program. The fees are designed not to exceed the total cost estimated by the department. The permanent rule amendments increase technical review fees and lower application fees for Small Premium Conservation Projects and Alternative Fuel Vehicle Projects. The rule amendment also modifies the pass-through and transfer fee for Small Premium Conservation Projects and increases the pass-through with assistance fee for all other conservation and transportation projects. The rule is effective September 1, 2015.
**Rules Coordinator:** Elizabeth Ross—(503) 373-8534

**330-200-0040**
**Fees**

The department adopts the following schedule of fees as provided by ORS 469B.259 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of $500 with their initial application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying system cost multiplied by 1.25 percent.

(3) Applicants requesting amendments must submit a fee of $300 with their amendment request.

(4) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.259 & 469B.265
Stats. Implemented: ORS 469B.250 - 469B.265
Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12; DOE 3-2013, f. & cert. ef. 10-2-13; DOE 2-2015, f. 8-28-15, cert. ef. 9-1-15

**330-210-0040**
**Fees**

The department adopts the following schedule of fees as provided by ORS 469B.294 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants, except those applying through the small premium project process, must submit an application fee of $500 with their preliminary certification application.

(2) Applicants applying through the small premium project process must submit a fee of $75 with their informational filing.

(3) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying project cost multiplied by 0.9 percent. Small premium projects are not subject to the technical review fee.

(4) Applicants requesting amendments to preliminary certifications must submit a fee of $300 with their amendment request.

(5) Applicants for final certification must submit with their application a final review fee. This fee amount is equal to the qualifying project cost multiplied by 0.55 percent. All applicants seeking final certification for a project, including small premium projects, are required to apply for final review and pay the final review fee.

(6) Applicants that transfer their tax credit to a pass-through partner must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department will issue a tax credit certificate.

(a) If the department assists the applicant, except those using the small premium project process, in obtaining a pass-through partner or partners, the fee for that assistance is 1.25 percent of the tax credit amount plus $200 per tax credit certificate issued.

(b) If the department does not assist the applicant, except those using the small premium project process, in obtaining a pass-through partner, the fee is $200 per tax credit certificate issued.

(c) Applicants for small premium projects, the fee is $200 plus $100 per each additional tax credit certificate issued. The additional fee of $100 per certificate issued does not apply to the first certificate.

(7) Applicants issued a tax credit certificate that choose to have their tax credit re-issued to a transferee must pay a transfer fee. The fee for small premium project applicants is $200 plus $100 per each additional tax credit certificate issued and the fee for all other applicants is $200 plus $100 per tax credit certificate issued. The additional fee of $100 per certificate issued does not apply to the first certificate for small premium project applicants.

(8) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.294 & 469B.306
Stats. Implemented: ORS 469B.270 - 469B.306 & 315.331
Hist.: DOE 12-2011(Temp), f. & cert. ef. 12-23-11 thru 6-19-12; DOE 6-2012, f. & cert. ef. 6-19-12; DOE 3-2013, f. & cert. ef. 10-2-13; DOE 2-2015, f. 8-28-15, cert. ef. 9-1-15

**330-220-0040**
**Application Fees**

The department adopts the following schedule of fees as provided by ORS 469B.335. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of $300 with their preliminary certification application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying project cost multiplied by 0.9 percent.

(3) Applicants requesting amendments to preliminary certifications must submit a fee of $300 with their amendment request.

(4) Applicants for final certification must submit with their application a final review fee. This fee amount is equal to the qualifying project cost multiplied by 0.55 percent. All applicants seeking final certification for a project are required to apply for final review and pay the final review fee.

(5) Applicants that choose to transfer their tax credit to a pass-through partner, pursuant to OAR 330-230-0110 to 330-230-0140, must pay a pass-

through fee. The fee is due after a pass-through partner has been identified and before the department will issue a tax credit certificate.

(a) If the department assists the applicant in obtaining a pass-through partner, or partners, the fee for that assistance is 1.25 percent of the tax credit amount plus $200 per tax credit certificate issued.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is $200 per tax credit certificate issued.

(6) Applicants issued a tax credit certificate that choose to have their tax credit certificate re-issued to a transferee must pay a transfer fee of $200 plus $100 per tax credit certificate issued.

(7) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.335 & 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12; DOE 3-2013, f. & cert. ef. 10-2-13; DOE 2-2015, f. 8-28-15, cert. ef. 9-1-15

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## Department of Fish and Wildlife
## Chapter 635

**Rule Caption:** Youngs Bay Commercial Fall Fisheries Modified.
**Adm. Order No.:** DFW 110-2015(Temp)
**Filed with Sec. of State:** 8-18-2015
**Certified to be Effective:** 8-24-15 thru 10-31-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0145
**Rules Suspended:** 635-042-0145(T)
**Subject:** This amended rule sets two new 12-hour non-Indian commercial fall salmon and shad gill net fisheries for the Youngs Bay Select Area of the Columbia River. The first new 12-hour fishery commences at 7:00 p.m. Monday, August 24, 2015. Modifications are consistent with State of Oregon action taken August 18, 2015 by the Oregon Department of Fish & Wildlife, Columbia River Programs.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0145**
**Youngs Bay Salmon Season**

(1) Chinook, coho, pink, and sockeye salmon and shad may be taken for commercial purposes in those waters of Youngs Bay described as all waters from the new Highway 101 bridge upstream to the upper boundary markers at Battle Creek Slough; including the lower Walluski River upstream to the Highway 202 bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough. Open fishing periods are as follows:

7:00 p.m. Tuesdays through 7:00 a.m. Thursdays, weekly from August 4 through August 20, 2015 (three 36-hour periods);
7:00 p.m. Monday, August 24 through 7:00 a.m. Tuesday, August 25, 2015 (12 hours);
7:00 p.m. Wednesday, August 26 through 7:00 a.m. Thursday, August 27, 2015 (12 hours); and
7:00 p.m. Monday, September 7 through noon Friday, October 30, 2015 (54 days).

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the leadline is allowed in Youngs Bay between markers located approximately 200 yards upstream of the mouth of the Walluski River and the upper deadline at Battle Creek Slough, in the lower Walluski River upstream to the Highway 202 Bridge, and in the Lewis and Clark River from the Alternate Highway 101 Bridge upstream to the overhead power lines immediately upstream of Barrett Slough. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches through August 20 and more than 6 inches thereafter. Nets that are fished at any time between official sunset and official sunrise must have lighted 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.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-

30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; DFW 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; DFW 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 51-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; DFW 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; DFW 21-2015(Temp), f. & cert. ef. 3-24-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 42-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 50-2015(Temp), f. & cert. ef. 5-27-15 thru 7-31-15; DFW 58-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; DFW 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; DFW 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15; DFW 110-2015(Temp), f. 8-18-15, cert. ef. 8-24-15 thru 10-31-15

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**Rule Caption:** Federal Actions and Management Measures Implemented for Commercial Groundfish Fisheries.
**Adm. Order No.:** DFW 111-2015(Temp)
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15 thru 2-14-16
**Notice Publication Date:**
**Rules Amended:** 635-004-0275
**Rules Suspended:** 635-004-0275(T)
**Subject:** This amended rule implements in-season actions previously adopted by the federal government for 2015 and 2016 Pacific Coast commercial groundfish fisheries. Amendments include, but are not limited to, increases to sablefish trip limits for Limited Entry Fixed Gear and Open Access Daily Trip Limit fisheries. And, rule modifications increase Big Skate trip limits for the shore-based Individual Fishing Quota (IFQ) program.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-004-0275**
**Scope, Inclusion, and Modification of Rules**

(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subparts C, D, E and F (October 1, 2014 ed.);

(b) Federal Register Vol. 80, No. 46, dated March 10, 2015 (80 FR 12567);

(c) Federal Register Vol. 79, No. 231, dated December 2, 2014 (79 FR 71340).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

(4) Notwithstanding the regulations defined in section (1) of this rule, the National Marine Fisheries Service, by means of Federal Register Vol. 80, No. 107, dated Thursday, June 4, 2015 (80 FR 31858), announced in-season actions and management measures effective June 1, 2015, including but not limited to establishment of trip limits and sorting requirements for big skate.

(5) Notwithstanding the regulations defined in sections (1) and (4) of this rule, the National Marine Fisheries Service, by means of Federal Register Vol. 80, No. 160, dated Wednesday, August 19, 2015 (80 FR 50212), announced in-season actions and management measures effective August 14, 2015, including but not limited to increases to sablefish trip limits in the Limited Entry Fixed Gear and Open Access Sablefish Daily Trip Limit Fisheries, and increases to Big Skate trip limits in the Shore-based Individual Fishing Quota Program.

[Publications: Publications referenced are available from the Department.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 496.162, 506.109, 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 78-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 10-27-12; DFW 106-2012(Temp), f. 8-15-12, cert. ef. 9-1-12 thru 12-31-12; DFW 1-2013, f. & cert. ef. 1-3-13; DFW 96-2013(Temp), f. 8-27-13, cert. ef. 9-1-13 thru 12-31-13; DFW 132-2013(Temp), f. & cert. ef. 12-9-13 thru 6-7-14; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 34-2014(Temp), f. & cert. ef. 4-23-14 thru 9-30-14; DFW 109-2014(Temp), f. & cert. ef. 8-4-14 thru 12-31-14; DFW 163-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 6-29-15; DFW 18-2015, f. & cert. ef. 3-10-15; DFW 68-2015(Temp), f. 6-11-15, cert. ef. 6-12-15 thru 12-8-15; DFW 111-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16

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**Rule Caption:** Netarts Bay Commercial Cockle Clam Dive Fishery Closes.
**Adm. Order No.:** DFW 112-2015(Temp)
**Filed with Sec. of State:** 8-20-2015
**Certified to be Effective:** 8-26-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-005-0355
**Subject:** This amended rule closes the Netarts Bay commercial cockle clam dive fishery at 12:01 a.m. Wednesday, August 26, 2015 due to the anticipated attainment of the 8,000 pound annual harvest quota allowed under Bay Clam Dive permits. Modifications are consistent with requirements described in OAR 635-005-0355 sections (1) and (3).
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-005-0355**
**Catch Limits**

(1) In Netarts Bay, the commercial landing cap for cockle clams harvested by the bay clam dive fishery is 8,000 pounds.

(2) In Tillamook Bay, the commercial landing cap for cockle clams harvested by the bay clam dive fishery is 90,000 pounds.

(3) When the commercial cockle clam landing caps specified in sections (1) and (2) of this rule are reached, the commercial cockle clam fishery in that estuary will close for the remainder of that calendar year.

(4) The Tillamook Bay clam dive fishery closed at 12:01 a.m. Friday, February 6, 2015 due to the attainment of the 90,000 pound landing cap.

(5) The Netarts Bay clam dive fishery will close at 12:01 a.m. Wednesday, August 26, 2015 due to the anticipated attainment of the 8,000 pound landing cap.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06, Renumbered from 635-005-0032, DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 80-2012(Temp), f. 6-28-12, cert. ef. 7-4-12 thru 12-30-12; Administrative correction, 2-1-13; DFW 54-2013(Temp), f. 6-12-13, cert. ef. 6-15-13 thru 12-11-13; Administrative correction, 12-19-13; DFW 69-2014(Temp), f. 6-12-14, cert. ef. 6-13-14 thru 12-10-14; Administrative correction, 12-18-14; DFW 11-2015(Temp), f. 2-3-15, cert. ef. 2-6-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 112-2015(Temp), f. 8-20-15, cert. ef. 8-26-15 thru 12-31-15

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**Rule Caption:** 2015 Columbia River Buoy 10 Summer Recreational Salmon Season Modified.
**Adm. Order No.:** DFW 113-2015(Temp)
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-23-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-023-0130
**Rules Suspended:** 635-023-0130(T)
**Subject:** This amended rule modifies the 2015 summer recreational Chinook salmon season regulations for Buoy 10 at the mouth of the Columbia River, effective August 23, 2015. Summer fisheries in 2015 are structured to optimize the harvest of Chinook, coho and steelhead within Endangered Species Act (ESA) limits and to provide a balanced opportunity for the fishers.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-023-0130**
**Fall Sport Fishery**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations.**

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 thru December 31: Retention of adipose fin-clipped coho (16-inches or longer) and adipose fin-clipped steelhead is allowed.

(B) From August 1 thru August 23: Retention of Chinook (24-inches or longer, fin-clipped or not) adipose fin-clipped coho (16-inches or longer) and adipose fin-clipped steelhead is allowed. The daily bag limit is two adults, only one of which may be a Chinook.

(C) From August 24 thru September 7: Only adipose fin-clipped Chinook (24-inches or longer), adipose fin-clipped coho (16-inches or longer), and adipose fin-clipped steelhead may be retained. The daily bag limit is two adults, only one of which may be a Chinook.

(D) From September 8 thru 30: Retention of Chinook is prohibited. Only adipose fin-clipped coho or adipose fin-clipped steelhead may be retained. The daily bag limit is two adults.

(E) From October 1 thru December 31: Retention of Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adults. Chinook jacks (fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) The Youngs Bay Control Zone, as described in 635-023-0140, is closed to recreational angling from August 1 through September 15.

(c) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 thru December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed.

(B) From August 1 thru September 7: Retention of adult Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead is allowed. The daily adult bag limit is two adults, only one of which may be a Chinook. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 8 thru September 14: Retention of adipose fin-clipped Chinook (24-inches or longer), adipose fin-clipped coho (16-inches or longer), and adipose fin-clipped steelhead is allowed. The daily adult bag limit is two adults, only one of which may be a Chinook. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 15 thru September 30: Retention of all Chinook is prohibited. The daily bag limit is two adults. Only adipose fin-clipped coho and adipose fin-clipped steelhead may be retained.

(E) From October 1 thru December 31: Retention of adult Chinook (fin-clipped or not) adipose fin-clipped coho and adipose fin-clipped steelhead is allowed. The daily bag limit is two adults. The daily bag limit for jack salmon in Oregon is five fish.

(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(d) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Steamboat Landing Park/Marker #50. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to a line projected from the most downstream point on the Steamboat Landing Park dock on the Washington shore through navigation light #50 to the Oregon shore:

(A) From August 1 thru December 31: Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead may be retained. The daily bag limit is two adults. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) Lower Columbia River from Steamboat Landing Park/Marker #50 upstream to Bonneville Dam. In the area described as: From a line projected from the most downstream point on the Steamboat Landing Park (100 S. Washougal River Road) dock on the Washington shore through navigation light #50 to the Oregon shore upstream to Bonneville Dam (fishing from the Steamboat Landing Park dock is included in this fishing area):

(A) From August 1 thru December 31: Retention of Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is three adults, of which no more than two may be adipose fin-clipped coho or adipose fin-clipped steelhead (in any combination). The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(f) In the area described as: From Bonneville Dam upstream to the OR/WA border (upstream of McNary Dam):

(A) From August 1 thru December 31: Retention of Chinook (fin-clipped or not), coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is three adults, of which no more than two may be coho or adipose fin-clipped steelhead (in any combination). The daily bag limit for jack salmon in Oregon is five fish.

(B) All coho retained downstream of the Hood River Bridge must be adipose fin-clipped.

(C) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the **2015 Oregon Sport Fishing Regulations** for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162
Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10, DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp). f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15

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**Rule Caption:** Cumulative Trip Limits for Blue and Other Nearshore Rockfish Increased In Periods 5 and 6.
**Adm. Order No.:** DFW 114-2015(Temp)
**Filed with Sec. of State:** 8-27-2015
**Certified to be Effective:** 9-1-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-004-0355
**Subject:** This amended rule increases the commercial nearshore fishery cumulative trip limits for blue rockfish from 15 to 50 pounds in periods 5 and 6. In addition, this rule increases trip limits for other nearshore rockfish from 100 to 300 pounds for the same periods. Further modifications maintain previous adjustments made to black rockfish and kelp greenling cumulative trip limits (Temporary Rule effective 7-2-2015).
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-004-0355**
**Trip Limits**

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing

effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery.

(2) Vessels with a Black Rockfish / Blue Rockfish / Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following cumulative trip limits:

(a) Black rockfish:

(A) 1200 pounds in period 1;

(B) 1400 pounds in period 2;

(C) 1700 pounds in period 3;

(D) 1800 in period 4;

(E) 1600 pounds in period 5;

(F) 1200 pounds in period 6; and

(b) 50 pounds of blue rockfish in each period.

(3) For all other nearshore species, vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following cumulative trip limits in each period:

(a) 300 pounds of other nearshore rockfish combined;

(b) 1,500 pounds of cabezon; and

(c) 400 pounds of greenling species.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 79-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 12-27-12; DFW 118-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 12-31-12; DFW 141-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 99-2013(Temp), f. & cert. ef. 9-9-13 thru 12-31-13; Administrative correction, 2-5-14; DFW 101-2014(Temp), f. 7-23-14, cert. ef. 8-1-14 thru 12-31-14; DFW 147-2014(Temp), f. & cert. ef. 10-13-14 thru 12-31-14; DFW 164-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 1-16-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 82-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 12-31-15; DFW 114-2015(Temp), f. 8-27-15, cert. ef. 9-1-15 thru 12-31-15

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**Rule Caption:** Columbia River Buoy 10 Summer Recreational Salmon Season Modified.

**Adm. Order No.:** DFW 115-2015(Temp)

**Filed with Sec. of State:** 8-28-2015

**Certified to be Effective:** 8-29-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Rules Suspended:** 635-023-0130(T)

**Subject:** This amended rule modifies the summer recreational salmon season regulations for Buoy 10 at the mouth of the Columbia River and prohibits retention of Chinook salmon beginning Saturday, August 29 through Wednesday, September 30, 2015. Summer fisheries are structured to optimize the harvest of Chinook, coho and steelhead within Endangered Species Act (ESA) limits and to provide a balanced opportunity for the fishers. Modifications are consistent with action taken August 27, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-023-0130**

**Fall Sport Fishery**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 thru December 31: Retention of adipose fin-clipped coho (16-inches or longer) and adipose fin-clipped steelhead is allowed.

(B) From August 1 thru August 23: Retention of Chinook (24-inches or longer, fin-clipped or not) adipose fin-clipped coho (16-inches or longer) and adipose fin-clipped steelhead is allowed. The daily bag limit is two adults, only one of which may be a Chinook.

(C) From August 24 thru August 28: Only adipose fin-clipped Chinook (24-inches or longer), adipose fin-clipped coho (16-inches or longer), and adipose fin-clipped steelhead may be retained. The daily bag limit is two adults, only one of which may be a Chinook.

(D) From August 29 thru September 30: Retention of Chinook is prohibited. Only adipose fin-clipped coho or adipose fin-clipped steelhead may be retained. The daily bag limit is two adults.

(E) From October 1 thru December 31: Retention of Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adults. Chinook jacks (fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) The Youngs Bay Control Zone, as described in 635-023-0140, is closed to recreational angling from August 1 through September 15.

(c) Beginning Tuesday, September 1 through Thursday, October 15, 2015 retention of non-adipose fin-clipped Chinook is prohibited in the waters of Youngs Bay in an area from the commercial fishing deadline at Battle Creek Slough upstream to the confluence of Klaskanine and Youngs River.

(d) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 thru December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed.

(B) From August 1 thru September 7: Retention of adult Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead is allowed. The daily adult bag limit is two adults, only one of which may be a Chinook. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 8 thru September 14: Retention of adipose fin-clipped Chinook (24-inches or longer), adipose fin-clipped coho (16-inches or longer), and adipose fin-clipped steelhead is allowed. The daily adult bag limit is two adults, only one of which may be a Chinook. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 15 thru September 30: Retention of all Chinook is prohibited. The daily bag limit is two adults. Only adipose fin-clipped coho and adipose fin-clipped steelhead may be retained.

(E) From October 1 thru December 31: Retention of adult Chinook (fin-clipped or not) adipose fin-clipped coho and adipose fin-clipped steelhead is allowed. The daily bag limit is two adults. The daily bag limit for jack salmon in Oregon is five fish.

(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Steamboat Landing Park/Marker #50. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to a line projected from the most downstream point on the Steamboat Landing Park dock on the Washington shore through navigation light #50 to the Oregon shore:

(A) From August 1 thru December 31: Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead may be retained. The daily bag limit is two adults. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(f) Lower Columbia River from Steamboat Landing Park/Marker #50 upstream to Bonneville Dam. In the area described as: From a line projected from the most downstream point on the Steamboat Landing Park (100 S. Washougal River Road) dock on the Washington shore through navigation light #50 to the Oregon shore upstream to Bonneville Dam (fishing from the Steamboat Landing Park dock is included in this fishing area):

(A) From August 1 thru December 31: Retention of Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is three adults, of which no more than two may be adipose fin-clipped coho or adipose fin-clipped steelhead (in any combination). The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(g) In the area described as: From Bonneville Dam upstream to the OR/WA border (upstream of McNary Dam):

(A) From August 1 thru December 31: Retention of Chinook (fin-clipped or not), coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is three adults, of which no more than two may be coho or

adipose fin-clipped steelhead (in any combination). The daily bag limit for jack salmon in Oregon is five fish.

(B) All coho retained downstream of the Hood River Bridge must be adipose fin-clipped.

(C) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the **2015 Oregon Sport Fishing Regulations** for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162
Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10, DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp). f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15; DFW 113-2015(Temp), f. 8-21-15, cert. ef. 8-23-15 thru 12-31-15; DFW 115-2015(Temp), f. 8-28-15, cert. ef. 8-29-15 thru 12-31-15

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**Rule Caption:** Additional Commercial Drift Gill Net Salmon Season Set for the Mainstem Columbia River.
**Adm. Order No.:** DFW 116-2015(Temp)
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 8-30-15 thru 9-30-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0031
**Rules Suspended:** 635-042-0031(T)
**Subject:** This amended rule authorizes an additional 9-hour fishing period for the on-going 2015 non-Indian commercial fall seine salmon fishery in zones 4-5 of the Columbia River commencing at 9:00 pm August 30, 2015. Allowed sales include: Adipose or left ventral fin-clipped Chinook; adipose-clipped coho, pink and sockeye salmon; and shad. Subject to Individual Fishing Quotas (as defined in the 2015 seine permits) and fishing regulations, all legal salmon caught must be landed.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0031**
**Early Fall Salmon Season**

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at 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.

(a) Authorized fishing periods are as follows:
9:00 p.m. Sunday, August 9 to 6:00 a.m. Monday, August 10 (9 hours);
9:00 p.m. Tuesday, August 11 to 6:00 a.m. Wednesday, August 12 (9 hours);
9:00 p.m. Thursday, August 13 to 6:00 a.m. Friday, August 14 (9 hours);
9:00 p.m. Sunday, August 16 to 6:00 a.m. Monday, August 17 (9 hours);
9:00 p.m. Tuesday, August 18 to 6:00 a.m. Wednesday, August 19 (9 hours);
9:00 p.m. Thursday, August 20 to 6:00 a.m. Friday, August 21 (9 hours);
9:00 p.m. Sunday, August 23 to 6:00 a.m. Monday, August 24 (9 hours);
9:00 p.m. Tuesday, August 25 to 6:00 a.m. Wednesday, August 26 (9 hours);
9:00 p.m. Thursday, August 27 to 6:00 a.m. Friday, August 28 (9 hours); and
9:00 p.m. Sunday, August 30 to 6:00 a.m. Monday, August 31 (9 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(c) Gear is restricted to drift gill nets only with 9 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(e) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

(2) Non-Indian mainstem commercial seine fishery:

(a) Salmon and shad may be taken with seine gear by those individuals possessing a 2015 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 2-3 through August 26, 2015; and Zones 2-3 plus upper Zone 4 thereafter. The lower boundary for Zone 4 is described as a line from USCG light #10 "Red" on the Oregon shore at Henrici Landing across to a wing jetty on the Washington shore at river mile 90.25.

(b) Season: – Area:
6:00 a.m. to 8:00 p.m. Monday, August 24 (14 hours) — Zones 2-3;
6:00 a.m. to 8:00 p.m. Wednesday, August 26 (14 hours) — Zones 2-3;
6:00 a.m. to 8:00 p.m. Monday, August 31 (14 hours) — Zones 2-3, 4;
6:00 a.m. to 8:00 p.m. Tuesday, September 1 (14 hours) — Zones 2-3, 4;
6:00 a.m. to 8:00 p.m. Wednesday, September 2 (14 hours) — Zones 2-3, 4;
6:00 a.m. to 8:00 p.m. Thursday, September 3 (14 hours) — Zones 2-3, 4;
6:00 a.m. to 8:00 p.m. Tuesday, September 8 (14 hours) — Zones 2-3, 4;
6:00 a.m. to 8:00 p.m. Wednesday, September 9 (14 hours) — Zones 2-3, 4;
6:00 a.m. to 8:00 p.m. Thursday, September 10 (14 hours) — Zones 2-3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 14 (13 hours) — Zones 2-3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 16 (13 hours) — Zones 2-3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 21 (13 hours) — Zones 2-3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 23 (13 hours) — Zones 2-3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 28 (13 hours) — Zones 2-3, 4; and
6:30 a.m. to 7:30 p.m. Wednesday, September 30 (13 hours) — Zones 2-3, 4.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B, Lewis-B, Sandy, and Washougal rivers. Fishing in Select Area commercial fishing sites is prohibited.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes.

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2015 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

(i) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: FWC 63-1987, f. & ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 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 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW: 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15

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**Rule Caption:** Youngs Bay Commercial Fall Fisheries Modified.
**Adm. Order No.:** DFW 117-2015(Temp)
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 8-31-15 thru 10-31-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0145
**Rules Suspended:** 635-042-0145(T)
**Subject:** This amended rule sets a new 3.5 day non-Indian commercial fall salmon and shad gill net fishery for the Youngs Bay Select Area of the Columbia River. This new fishery commences at 7:00 p.m. Monday, August 31, 2015. Modifications are consistent with State of Oregon action taken August 27, 2015 by the Oregon Department of Fish & Wildlife, Columbia River Programs.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0145**
**Youngs Bay Salmon Season**

(1) Chinook, coho, pink, and sockeye salmon and shad may be taken for commercial purposes in those waters of Youngs Bay described as all waters from the new Highway 101 bridge upstream to the upper boundary markers at Battle Creek Slough; including the lower Walluski River upstream to the Highway 202 bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough. Open fishing periods are as follows:

7:00 p.m. Tuesdays through 7:00 a.m. Thursdays, weekly from August 4 through August 20, 2015 (three 36-hour periods);
7:00 p.m. Monday, August 24 through 7:00 a.m. Tuesday, August 25, 2015 (12 hours);
7:00 p.m. Wednesday, August 26 through 7:00 a.m. Thursday, August 27, 2015 (12 hours);
7:00 p.m. Monday, August 31 through 7:00 a.m. Friday, September 4, 2015 (3.5 days); and
7:00 p.m. Monday, September 7 through noon Friday, October 30, 2015 (54 days).

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the leadline is allowed in Youngs Bay between markers located approximately 200 yards upstream of the mouth of the Walluski River and the upper deadline at Battle Creek Slough, in the lower Walluski River upstream to the Highway 202 Bridge, and in the Lewis and Clark River from the Alternate Highway 101 Bridge upstream to the overhead power lines immediately upstream of Barrett Slough. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches through August 20 and more than 6 inches thereafter. Nets that are fished at any time between official sunset and official sunrise must have lighted 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.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. &

cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; DFW 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; DFW 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 51-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; DFW 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; DFW 21-2015(Temp), f. & cert. ef. 3-24-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 42-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 50-2015(Temp), f. & cert. ef. 5-27-15 thru 7-31-15; DFW 58-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; DFW 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; DFW 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15; DFW 110-2015(Temp), f. 8-18-15, cert. ef. 8-24-15 thru 10-31-15; DFW 117-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 10-31-15

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**Rule Caption:** Retention of Non-Adipose Fin-clipped Chinook in Youngs Bay, Youngs and Klaskanine Rivers Prohibited.
**Adm. Order No.:** DFW 118-2015(Temp)
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 9-1-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-014-0090
**Rules Suspended:** 635-014-0090(T)
**Subject:** This amended rule prohibits retention of non-adipose fin-clipped Chinook salmon in potions of Youngs Bay and the Youngs River from the commercial fishing deadline at Battle Creek Slough upstream to Youngs River Falls; and the Klaskanine River from the confluence with Youngs River upstream to the Youngs River Loop Bridge (Tidewater Bridge) beginning Tuesday, September 1 through Thursday, October 15, 2015.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-014-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Northwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c) through (2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested for the season from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total for the season may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total for the season may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for wild coho salmon from September 18 through October 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for wild coho salmon from September 20 through November 2. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Siletz River and Bay upstream to an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for wild coho salmon from September 15 through October 6; Siletz River and Bay upstream to Illahee Boat Ramp is open for wild coho salmon from October 7 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for wild coho salmon from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(g) The Alsea River and Bay upstream to the USFS River Edge Boat Landing are open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(h) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River with Lake Creek is open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(i) Beaver Creek (at Ona Beach between Newport and Waldport) from footbridge west of Highway 101 upstream to the power line crossing near the the confluence of South Fork Beaver Creek (Ona Beach) open for wild coho salmon from November 1-30 or until attainment of an adult wild coho quota of 150 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Siletz River and Bay, upstream to painted boulder located 900 feet downstream from Siletz Falls at rivermile 64.4 including tidewater:

(a) Open for adipose fin-clipped steelhead all year;

(b) Open for spring Chinook salmon April 1–July 31, upstream to deadline marker at Moonshine Park boat ramp, one non fin-clipped spring Chinook salmon per day and 2 per year;

(c) Open for fall Chinook salmon August 1–December 31 upstream to marker sign approximately 1200 feet upstream of Ojalla Bridge;

(d) Open for fall Chinook salmon October 7–December 31 upstream to Illahee boat ramp; and

(e) Use of bait is allowed.

(4) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day with the following exception: Angling hours in tidewater areas, as defined in the **2015 Oregon Sport Fishing Regulations,** remain in effect.

(5) Five Rivers upstream to Buck Creek (Alsea Basin; Lincoln, Lane, and Benton counties) is Closed for Chinook salmon August 1–December 31, 2015.

(6) Beginning Tuesday, September 1 through Thursday, October 15, 2015 retention of non-adipose fin clipped Chinook is prohibited in:

(a) The waters of Youngs Bay and Youngs River, in an area from the commercial fishing deadline at Battle Creek Slough upstream to Youngs River Falls; and

(b) The Klaskanine River from the confluence with Youngs River upstream to the Youngs River Loop Bridge (Tidewater Bridge).

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f, 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert, ef, 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 94-2015(Temp), f. 7-27-15, cert. ef. 8-1-15 thru 12-31-15; DFW 118-2015(Temp), f. 8-28-15, cert. ef. 9-1-15 thru 12-31-15

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**Rule Caption:** Additional Commercial Drift Gill Net Salmon Season Set for the Mainstem Columbia River Modified.
**Adm. Order No.:** DFW 119-2015(Temp)
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 8-31-15 thru 9-30-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0031
**Rules Suspended:** 635-042-0031(T)
**Subject:** This amended rule reduces the duration of a previously authorized fishing period, for the on-going 2015 non-Indian commercial fall seine salmon fishery in zones 4-5 of the Columbia River, from 9 hours to 4 hours. The start time for the period was modified to begin at 2:00 a.m. August 31, 2015. Allowed sales include: Adipose or left ventral fin-clipped Chinook; adipose fin-clipped coho, pink and sockeye salmon; and shad. Subject to Individual Fishing Quotas (as defined in the 2015 seine permits) and fishing regulations, all legal salmon caught must be landed.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0031**
**Early Fall Salmon Season**

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4–5, as identified in OAR 635-042-0001. The deadline at 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.

(a) Authorized fishing periods are as follows:

9:00 p.m. Sunday, August 9 to 6:00 a.m. Monday, August 10 (9 hours);
9:00 p.m. Tuesday, August 11 to 6:00 a.m. Wednesday, August 12 (9 hours);
9:00 p.m. Thursday, August 13 to 6:00 a.m. Friday, August 14 (9 hours);
9:00 p.m. Sunday, August 16 to 6:00 a.m. Monday, August 17 (9 hours);
9:00 p.m. Tuesday, August 18 to 6:00 a.m. Wednesday, August 19 (9 hours);
9:00 p.m. Thursday, August 20 to 6:00 a.m. Friday, August 21 (9 hours);
9:00 p.m. Sunday, August 23 to 6:00 a.m. Monday, August 24 (9 hours);
9:00 p.m. Tuesday, August 25 to 6:00 a.m. Wednesday, August 26 (9 hours);
9:00 p.m. Thursday, August 27 to 6:00 a.m. Friday, August 28 (9 hours); and
2:00 a.m. Monday, August 31 to 6:00 a.m. Monday, August 31 (4 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(c) Gear is restricted to drift gill nets only with 9 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(e) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

(2) Non-Indian mainstem commercial seine fishery:

(a) Salmon and shad may be taken with seine gear by those individuals possessing a 2015 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 2-3 through August 26, 2015; and Zones 2-3 plus upper Zone 4 thereafter. The lower boundary for Zone 4 is described as a line from USCG light #10 "Red" on the Oregon shore at Henrici Landing across to a wing jetty on the Washington shore at river mile 90.25.

(b) Season: — Area:

6:00 a.m. to 8:00 p.m. Monday, August 24 (14 hours) — Zones 2–3;

6:00 a.m. to 8:00 p.m. Wednesday, August 26 (14 hours) — Zones 2–3;
6:00 a.m. to 8:00 p.m. Monday, August 31 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Tuesday, September 1 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Wednesday, September 2 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Thursday, September 3 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Tuesday, September 8 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Wednesday, September 9 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Thursday, September 10 (14 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 14 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 16 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 21 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 23 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 28 (13 hours) — Zones 2–3, 4; and
6:30 a.m. to 7:30 p.m. Wednesday, September 30 (13 hours) — Zones 2–3, 4.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B, Lewis-B, Sandy, and Washougal rivers. Fishing in Select Area commercial fishing sites is prohibited.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0–2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes.

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2015 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

(i) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: FWC 63-1987, f. & ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 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 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW: 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 9-30-15

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**Rule Caption:** Statewide Emergency Sport Fishing Restrictions Due to Severe Drought Conditions Lifted.
**Adm. Order No.:** DFW 120-2015(Temp)
**Filed with Sec. of State:** 8-31-2015
**Certified to be Effective:** 9-1-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-014-0090, 635-016-0090, 635-017-0090
**Rules Suspended:** 635-014-0090(T), 635-016-0090(T), 635-017-0090(T), 635-017-0095(T), 635-018-0090(T)
**Subject:** These amended and suspended rules remove previously adopted angling restrictions for trout, salmon, steelhead and sturgeon fisheries implemented around Oregon in July 2015 due to unusually warm stream temperatures. Water temperatures in the areas affected by these rule modifications have returned to near normal for this time of year and are expected to continue to improve. Fisheries managers believe the earlier restrictions are no longer necessary.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-014-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Northwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c) through (2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested for the season from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total for the season may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total for the season may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for wild coho salmon from September 18 through October 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for wild coho salmon from September 20 through November 2. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Siletz River and Bay upstream to an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for wild coho salmon from September 15 through October 6; Siletz River and Bay upstream to Illahee Boat Ramp is open for wild coho salmon from October 7 –November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for wild coho salmon from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(g) The Alsea River and Bay upstream to the USFS River Edge Boat Landing are open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(h) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River with Lake Creek is open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(i) Beaver Creek (at Ona Beach between Newport and Waldport) from footbridge west of Highway 101 upstream to the power line crossing near the the confluence of South Fork Beaver Creek (Ona Beach) open for wild coho salmon from November 1-30 or until attainment of an adult wild coho quota of 150 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Siletz River and Bay, upstream to painted boulder located 900 feet downstream from Siletz Falls at rivermile 64.4 including tidewater:

(a) Open for adipose fin-clipped steelhead all year;

(b) Open for fall Chinook salmon August 1–December 31 upstream to marker sign approximately 1200 feet upstream of Ojalla Bridge;

(c) Open for fall Chinook salmon October 7–December 31 upstream to Illahee boat ramp; and

(d) Use of bait is allowed.

(4) Five Rivers upstream to Buck Creek (Alsea Basin; Lincoln, Lane, and Benton counties) is closed for Chinook salmon August 1–December 31, 2015.

(5) Beginning Tuesday, September 1 through Thursday, October 15, 2015 retention of non-adipose fin clipped Chinook is prohibited in:

(a) The waters of Youngs Bay and Youngs River, in an area from the commercial fishing deadline at Battle Creek Slough upstream to Youngs River Falls; and

(b) The Klaskanine River from the confluence with Youngs River upstream to the Youngs River Loop Bridge (Tidewater Bridge).

(6) 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 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f, 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert, ef, 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 94-2015(Temp), f. 7-27-15, cert. ef. 8-1-15 thru 12-31-15; DFW 118-2015(Temp), f. 8-28-15, cert. ef. 9-1-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15

**635-016-0090**

**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations** pamphlet

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional

rules apply to wild coho salmon angling in waters of the Southwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c)-(2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Open for wild coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Coos Basin open for wild coho salmon from the tips of the jetties upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Open for wild coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for wild coho salmon from October 1 through December 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply. Only 1 rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(g) Floras Creek/New River from the Bureau of Land Management boat ramp at Storm Ranch upstream to the confluence with the Floras Lake outlet open for wild coho salmon from November 1–30 or until attainment of an adult coho quota of 200 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Umpqua River mainstem, including tidewater, from the tips of the jetties upstream to confluence with North and South Forks (includes Winchester Bay):

(a) Open for fall Chinook salmon July 1 through December 31, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 20 per year in combination with all other salmon or steelhead marked on your tag.

(b) Closed to all angling within a radius of 200 feet from the mouths of all tributaries (including 200 feet into the tributary) of the Umpqua River between the Scottsburg Bridge (Hwy 38) and the Riverforks Park Boat Ramp until October 1, 2015.

(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 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, certe. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 74-2015(Temp), f. & cert. ef. 6-23-15 thru 12-19-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 106-2015(Temp), f. & cert. ef. 8-13-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15

**635-017-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Willamette 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) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Beginning Wednesday, May 27, 2015 on the South Santiam River, from the Waterloo Road Bridge to 200 feet above Waterloo Falls, the following regulations are in effect:

(a) Anglers are restricted to the use of fly angling and bobber angling gears only;

(b) Bobber angling gear must include a bobber and a leader no longer than 36 inches in length;

(c) Any weight attached to the line (except the bobber) may be no more than 36 inches from the lowermost hook when suspended vertically;

(d) The leader below the bobber must remain suspended in the water column and not residing on the river bottom; and

(4) All other regulations as shown in the **2015 Oregon Sports 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 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp) f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert ef. 7-12-02 thru 12-31-02; 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 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, 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 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp). f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15: DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15

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**Rule Caption:** Modified Angling Regulations for Rotenone Treatment in Southeast and Northeast Angling Zones.
**Adm. Order No.:** DFW 121-2015(Temp)
**Filed with Sec. of State:** 8-31-2015
**Certified to be Effective:** 9-1-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-019-0090, 635-021-0090
**Rules Suspended:** 635-019-0090(T), 635-021-0090(T)
**Subject:** These amended rules liberalize catch limits and harvest methods for several water bodies in the Northeast angling zone and modify the angling closure date for Balm Creek Reservoir in the Southeast angling zone due to the scheduled treatment of these waters with Rotenone, a fish toxicant, in late September. These rule modifications provide sport fishers an opportunity to salvage as many fish as possible prior to this treatment, which is necessary to remove unwanted fish species.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-019-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Boundary Pond, Goldfish Pond, Granite Meadows Pond, Keyhole Pond, Kinney Lake, Luger Pond, Peach Pond, Widy Springs Pond and Yellowjacket Pond are open to angling for all game species from September 1 through 25, 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) Boundary Pond, Goldfish Pond, Granite Meadows Pond, Keyhole Pond, Kinney Lake, Luger Pond, Peach Pond, Widy Springs Pond and Yellowjacket Pond are closed to angling from September 26 through 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 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp) f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-

2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13 thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; 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; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15

**635-021-0090**
**Inclusions and Modifications**

(1) **2015 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) The Powder River is open to angling for spring Chinook salmon from Hughes Lane Bridge near Baker City upstream to Mason Dam from May 20 through September 1, 2015: The daily bag limit is four (4) adipose fin-clipped Chinook; two daily limits in possession.

(3) Balm Creek Reservoir is open to angling for all game species from July 18 through September 25, 2015 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

(4) Balm Creek is closed to angling from September 26 through December 31, 2015.

(5) Thief Valley Reservoir is open to angling for all game species from July 18 through October 15, 2015 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

(6) 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 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp) f. 8-19-02,cert. ef 8-20-02 thru 11-1-0 2 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15

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**Rule Caption:** Columbia River Emergency Sport Sturgeon Fishing Regulation Changes Due to Severe Drought Conditions Suspended
**Adm. Order No.:** DFW 122-2015(Temp)
**Filed with Sec. of State:** 8-31-2015
**Certified to be Effective:** 9-1-15 thru 9-30-15
**Notice Publication Date:**
**Rules Suspended:** 635-023-0095(T)
**Subject:** This amended rule rescinds a previous closure to angling for sturgeon, including catch-and-release and retention in the Columbia River mainstem upstream of Bonneville Dam and all adjacent tributaries. Fisheries managers for the states of Oregon and Washington believe these restrictions are no longer necessary as the extremely warm stream temperatures which prompted the closure no longer exist.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

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**Rule Caption:** Amend Rules Relating to Greater Sage-Grouse Conservation Strategy for Oregon to Address Mitigation
**Adm. Order No.:** DFW 123-2015
**Filed with Sec. of State:** 9-1-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 635-140-0002, 635-140-0025
**Rules Amended:** 635-140-0000, 635-140-0005, 635-140-0010, 635-140-0015
**Subject:** Mitigation policy specific to addressing impact to sage grouse habitat from actions authorized by local county or other governmental authorities. Develop rules to implement new legislation (ORS 498.5000 and 498.502.)
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-140-0000**
**Purpose**

These administrative rules establish the policy of the Commission for the protection and enhancement of Greater Sage-Grouse in Oregon. These rules incorporate and supplement portions of the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" (2011) ("the Strategy") which sets population and habitat management objectives, and defines and governs the Department's core area approach to conservation of sage-grouse in Oregon. These rules also advance sage-grouse population and habitat protection through a mitigation hierarchy and the establishment of a mitigation standard for impacts from certain types of development actions in sage-grouse habitat. In the event of a conflict between the "Strategy" and these rules, these rules govern.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502
Hist.: DFW 94-2005, f. & cert. ef. 8-19-05; DFW 37-2011, f. & cert. ef. 5-4-11; DFW 123-2015, f. & cert. ef. 9-1-15

**635-140-0002**
**Definitions**

For the purposes of OAR 635-140-0000: Technical terms used in these sections are further defined in the glossary of the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" adopted by the Commission on April 22, 2011 (copies of the plan are available through the Oregon Department of Fish and Wildlife).

(1) "Areas of High Population Richness" are mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e., the top 25%).

(2) "Core areas" are mapped sagebrush types or other habitats that support greater sage-grouse annual life history requirements that are encompassed by areas: a) of very high, high, and moderate lek density strata; b) where low lek density strata overlap local connectivity corridors; or c) where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat." Core area maps are maintained by the Department.

(3) "Development action" means any human activity subject to regulation by local, state, or federal agencies that could result in the loss of sage-grouse habitat. Development actions may include but are not limited to, construction, and operational activities authorized or conducted by local,

state, and federal agencies. Development actions also include subsequent re-permitting of existing activities proposing new impacts beyond current conditions.

(4) "Direct impact" means an adverse effect of a development action upon sage-grouse habitat which is proximal to the physical footprint of the development action in time and place.

(5) "Functionality" is the ability of habitat to meet sage-grouse seasonal and/or year round life history needs (e.g. breeding, early rearing, wintering, migratory) and sustain sage-grouse populations.

(6) "Indirect impacts" are adverse effects to sage-grouse and their habitat that are caused by or will ultimately result from implementation of a development action, with such effects usually occurring later in time or more removed in distance as compared to direct effects.

(7) "Low density" areas are mapped sagebrush types or other habitats that support greater sage-grouse that are encompassed by areas where: a) low lek density strata overlapped with seasonal connectivity corridors; b) local corridors occur outside of all lek density strata; c) low lek density strata occur outside of connectivity corridors; or d) seasonal connectivity corridors occur outside of all lek density strata." Low density area maps are maintained by the Department.

(8) "General habitat" is occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.

(9) "Priority Areas for Conservation (PACs)" are key habitats identified by state sage-grouse conservation plans or through other sage-grouse conservation efforts (e.g., federal Bureau of Land Management plans or U.S. Fish and Wildlife Service efforts). In Oregon, core area habitats are PACs.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502
Hist.: DFW 123-2015, f. & cert. ef. 9-1-15

**635-140-0005**
**Population Management**

In accordance with the Wildlife Policy (ORS 496.012), the Department's primary population management goal is to restore, maintain and enhance populations of greater sage-grouse such that multiple uses of populations and their habitats can continue. Regional and state population objectives shall be identified based on the best information available.

(1) Policy: Manage greater sage-grouse statewide to maintain or enhance their abundance and distribution at the 2003 spring breeding population level, approximately 30,000 birds over the next 50 years.

(2) Objectives: Consistent with the population management policy, achieve the following regional population objectives:

(a) Baker Resource Area BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 2,000 birds.

(b) Vale District BLM excluding Baker Resource Area BLM): maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 11,000 birds.

(c) Burns District BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 4,300 birds.

(d) Lakeview District BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 9,400 birds.

(e) Prineville District BLM: restore greater sage-grouse abundance and distribution near the 1980 spring breeding population level, approximately 3,000 birds.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 94-2005, f. & cert. ef. 8-19-05; DFW 37-2011, f. & cert. ef. 5-4-11; DFW 123-2015, f. & cert. ef. 9-1-15

**635-140-0010**
**Habitat Management**

(1) Goals: The Department's habitat goals are to achieve the following, recognizing that such achievement is dependent upon authorities, programs, collaborative partnerships, and other factors beyond those within the Department's authority alone:

(a) Maintain or enhance the distribution of sagebrush habitats within greater sage-grouse range in Oregon;

(b) Manage those habitats in a variety of structural stages to benefit greater sage-grouse while reducing or minimizing habitat threats and promoting resilience;

(c) Avoid development actions in sage-grouse core, low density, and general habitats which adversely impact sage-grouse habitat or sage-grouse use of those habitats;

(d) Limit the extent, location, and negative impacts of development actions over time within sage-grouse core, low density, and general habitats. In core areas, direct impact levels from development actions will be limited to no more than 3% of any "Priority Area for Conservation" and a rate not to exceed 1.0% over a ten year period, as described in OAR 660-023-0115;

(e) Require compensatory mitigation for direct and indirect impacts from developments within sage-grouse core, low density, and general habitats. Ensure such mitigation provides a net conservation benefit to sage-grouse and their habitat by providing an increase in the functionality of their habitat to support sage-grouse, consistent with OAR 635-140-0025.

(2) Objective: Manage a minimum of 70% of greater sage-grouse range for sagebrush habitat in advanced structural stages, sagebrush class 3, 4 or 5, with an emphasis on classes 4 and 5. The remaining approximately 30% includes areas of juniper encroachment, non-sagebrush shrub land, and grassland and should be managed to increase available habitat within greater sage-grouse range.

(3) Objective: Maintain and enhance existing sagebrush habitats and enhance potential habitats that have been disturbed such that there is a net conservation gain of sagebrush habitat in the following regions:

(a) Baker Resource Area BLM: 82% sagebrush and 18% disturbed habitats.

(b) Vale District BLM (excluding Baker Resource Area): 70% sagebrush and 30% disturbed habitats.

(c) Burns District BLM: 68% sagebrush and 32% disturbed habitats.

(d) Lakeview District BLM: 72% sagebrush and 28% disturbed habitats.

(e) Prineville District BLM: 47% sagebrush and 53% disturbed habitats.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 94-2005, f. & cert. ef. 8-19-05; DFW 37-2011, f. & cert. ef. 5-4-11; DFW 123-2015, f. & cert. ef. 9-1-15

**635-140-0015**
**Core Area Approach to Conservation**

The purpose of establishing the Department's core area approach is to address greater sage-grouse management from a conservation biology perspective that identifies the most productive populations and habitats associated with meeting all life history needs related to ensuring sage-grouse viability in Oregon.

(1) Policy 1. The Department shall develop and maintain maps that identify core area habitats necessary to conserve 90% of Oregon's greater sage-grouse population, with emphasis on highest density and important use areas which provide for breeding, wintering and connectivity corridors.

(2) Policy 2. The Department shall develop and maintain maps that identify low density habitat which provide breeding, summer, and migratory habitats of the Oregon statewide greater sage-grouse population.

(3) When developing, revising, or maintaining the maps referred to in paragraphs (a) and (b) the Department will use:

(a) Local Sage-Grouse Implementation Teams to evaluate the maps and refine exterior boundaries by use of aerial imagery and local knowledge of sage-grouse and sage-grouse habitat;

(b) Best available science to further understanding of greater sage-grouse life history and conservation needs; and

(c) County governing bodies, or their designees, to provide local knowledge and input regarding changes in local land use to be incorporated in the core area maps and any related mapping changes.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 37-2011, f. & cert. ef. 5-4-11; DFW 123-2015, f. & cert. ef. 9-1-15

**635-140-0025**
**Mitigation Hierarchy of Impacts in Sage-grouse Core, Low Density, and General Habitats**

Adverse impacts in sage-grouse core, low density, and general habitat from development actions must be mitigated by the developer for both direct and indirect adverse impacts to sage-grouse and their habitats. When ascertaining direct and indirect adverse impacts from development actions, the Department will use the most current and best available science related to sage-grouse biology and habitat conservation, including the Mitigation Framework for Sage-Grouse Habitats (ODFW, March 20, 2012). Mitigation is comprised, in hierarchal order, of avoidance, minimization, and compensatory mitigation.

(1) Policy 1. Mitigation for direct and indirect impacts from development actions will be required where the proposed development action:

(a) Requires a county land use permit, is a large-scale development as defined in OAR 660-023-0115, and would impact core or low density habitat,

(b) Requires a county land use permit, is a large-scale development as defined in OAR 660-023-0115, and would impact general habitat within 3.1 miles of a lek in a manner that would reduce functional sage-grouse habitat or sage-grouse use of their habitat,

(c) Requires a county land use permit but is not a large scale development as defined in OAR 660-023-0115. In this case, through consultation with the development action proponent, the Department will determine:

(A) Whether to require mitigation based on the likelihood of adverse impacts from the proposed action in a manner that would reduce functional sage-grouse habitat or sage-grouse use of that habitat;

(i) Within 4 miles of a lek in core area habitat;

(ii) Within 3.1 miles of a lek in low density habitat; or

(iii) Within 3.1 miles of a lek in general habitat.

(B) If mitigation is required based on (1)(c)(A) above, the appropriate level of mitigation will be based on the nature of the impact upon habitat functionality and the resultant risk to sage-grouse.

(C) Mitigation is not required for private land agricultural activities exempted from regulation under OAR-660-023-0115.

(d) Is located in or would adversely impact sage-grouse habitat on public lands and requires state or federal approval not otherwise exempted in OAR 660-023-0115.

(2) Policy 2. The Department may approve or recommend approval of mitigation for impacts from a large-scale development permitted by a county; or development actions permitted by a state or federal government entity on public land, within sage-grouse habitat only after the following mitigation hierarchy has been addressed by the permitting entity, with the intent of directing the development action away from the most productive habitats and into the least productive areas for sage-grouse (in order of importance: core area, low density, general, and non-habitat).

(a) Avoidance in Core Area Habitat. If the proposed development can occur in another location that avoids both direct and indirect impacts within core habitat, then the proposal must not be allowed unless it can satisfy the following criteria:

(A) It is not technically feasible to locate the proposed development activity or its impacts outside of a core habitat area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that the development must be located such that it will have direct or indirect impacts on sage-grouse core area habitat; or

(B) The proposed development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and

(C) If the proposal is for a large-scale development as defined in Oregon Land Conservation and Development OAR 660-023-0115 and either (2)(a)(A) or (2)(a)(B) is found to be satisfied, the permitting entity must also find that it will provide important economic opportunity, needed infrastructure or public safety benefits for local citizens or the entire region.

(b) Avoidance in Low Density Habitat. If the proposed development action can occur in another location that avoids both direct and indirect impacts within low density sage-grouse habitat, then the proposal must not be allowed unless it can satisfy the following criteria:

(A) It is not technically or financially feasible to locate the proposed use outside of low density sage-grouse habitat based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

(B) The proposed development action is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations.

(c) Avoidance in General Habitat. If the proposed development activity and its direct and indirect impacts are in general sage-grouse habitat (within 3.1 miles of a lek), then the permitting entity may allow the activity based on satisfaction of the following criteria:

(A) Consultation between the development proponent and the Department that generates recommendations

pursuant to the approach identified in minimization subsection (d), and

(B) Incorporation by the project proponent of reasonable changes to the project proposal based on the above consultation with the Department, and/or justification as to why a given recommendation is not feasible.

(d) Minimization. If after exercising the above avoidance tests, the permitting entity finds the proposed development action cannot be moved to non-habitat or into a habitat category that avoids adverse direct and indirect impacts to a habitat category of greater significance (i.e., core or low density), then the next step applied in the mitigation hierarchy will be minimization of the direct and indirect impacts of the proposed development action. Minimization consists of how to best locate, construct, operate and time (both seasonally and diurnally) the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat and sage-grouse.

(A) Minimizing impacts from development actions in core habitat shall ensure direct and indirect impacts do not occur in known areas of high population richness within a given core area, unless a project proponent demonstrates, by a preponderance of the evidence, that such an approach is not feasible.

(B) Minimizing impacts from development actions in general habitat shall include consultation between the development proponent and the Department that considers and results in recommendations on how to best locate, construct, or operate the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat within the area of general habitat.

(e) Compensatory Mitigation. If avoidance and minimization efforts have been exhausted, compensatory mitigation to address both direct and indirect impacts will be required as part of the permitting process for remaining adverse impacts from the proposed development action to sage-grouse habitat, consistent with the mitigation standard in (3) Policy 3 below.

(3) Policy 3. The standard for compensatory mitigation of direct and indirect habitat impacts in sage-grouse habitat (core low density, and general areas) is to achieve net conservation benefit for sage-grouse by replacing the lost functionality of the impacted habitat to a level capable of supporting greater sage-grouse numbers than that of the habitat which was impacted. Where mitigation actions occur in existing sage-grouse habitat, the increased functionality must be in addition to any existing functionality of the habitat to support sage-grouse. When developing and implementing mitigation measures for impacts to core, low density, and general sage-grouse habitats, the project developers shall:

(a) Work directly with the Department and permitting entity to obtain approval to implement a mitigation plan or measures, at the responsibility of the developer, for mitigating impacts consistent with the standard in OAR 635-140-0025(3) or,

(b) Work with an entity approved by the Department to implement, at the responsibility of the developer, "in-lieu fee" projects consistent with the standard in OAR 635-140-0025(3).

(c) Any mitigation undertaken pursuant to (a) or (b) above must have in place measures to ensure the results of the mitigation activity will persist (barring unintended natural events such as fire) for the life of the original impact. The Department will engage in mitigation discussions related to development actions in a manner consistent with applicable timelines of permitting entities.

(4) Policy 4. The Department shall follow the Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-0000) when defining habitat categories and providing recommendations to address potential site-level impacts to species other than greater sage-grouse that occur within sage-grouse core area habitat or sage-grouse low density habitat, except that if there is a resulting conflict between OAR 635-415-0000 and this rule, then this rule shall control.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162
Hist.: DFW 123-2015, f. & cert. ef. 9-1-15

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**Rule Caption:** Additional Commercial Seine Net Salmon Seasons Set for the Mainstem Columbia River.
**Adm. Order No.:** DFW 124-2015(Temp)
**Filed with Sec. of State:** 9-2-2015
**Certified to be Effective:** 9-4-15 thru 9-30-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0031
**Rules Suspended:** 635-042-0031(T)
**Subject:** This amended rule adds two new 14-hour fishing periods to the ongoing non-Indian commercial fall seine net salmon fishery in zones 2-4 of the Columbia River. The start times for the added periods are 6:00 a.m. Friday, September 4 and 6:00 a.m. Friday, September 11, 2015. Allowed sales are subject to Individual Fishing Quotas (as defined in the 2015 seine permits) and include: Adipose or left ventral fin-clipped Chinook; adipose-clipped coho, pink and sockeye salmon; and shad. All legal salmon caught must be landed.

Rule modifications are consistent with action taken September 2, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0031**

**Early Fall Salmon Season**

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4–5, as identified in OAR 635-042-0001. The deadline at 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.

(a) Authorized fishing periods are as follows: 2:00 a.m. Monday, August 31 to 6:00 a.m. Monday, August 31 (4 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(c) Gear is restricted to drift gill nets only with 9 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(e) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

(2) Non-Indian mainstem commercial seine fishery:

(a) Salmon and shad may be taken with seine gear by those individuals possessing a 2015 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 2-3 through August 26, 2015; and Zones 2-3 plus upper Zone 4 thereafter. The lower boundary for Zone 4 is described as a line from USCG light #10 "Red" on the Oregon shore at Henrici Landing across to a wing jetty on the Washington shore at river mile 90.25.

(b) Season: — Area:

6:00 a.m. to 8:00 p.m. Wednesday, September 2 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Thursday, September 3 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Friday, September 4 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Tuesday, September 8 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Wednesday, September 9 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Thursday, September 10 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Friday, September 11 (14 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 14 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 16 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 21 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 23 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 28 (13 hours) — Zones 2–3, 4; and
6:30 a.m. to 7:30 p.m. Wednesday, September 30 (13 hours) — Zones 2–3, 4.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B, Lewis-B, Sandy, and Washougal rivers. Fishing in Select Area commercial fishing sites is prohibited.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes.

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2015 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted. Sorting of fish may continue after the fishing period ends.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

(i) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: FWC 63-1987, f. & ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 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 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; 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DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-

31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. 9-2-15, cert. ef. 9-4-15 thru 9-30-15

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**Rule Caption:** Amended Hunting Agreement for 2015 Between ODFW and Warm Springs Tribe
**Adm. Order No.:** DFW 125-2015(Temp)
**Filed with Sec. of State:** 9-2-2015
**Certified to be Effective:** 9-2-15 thru 2-28-16
**Notice Publication Date:**
**Rules Adopted:** 635-043-0155
**Subject:** Amended rule between Warm Springs Tribe and ODFW regarding legal authority to take big game species for the 2015 hunting season.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-043-0155**
**Warm Springs Hunting Agreement for 2015**

Warm Springs Tribal members are authorized to take wildlife under the terms and conditions of the 2014 Arrangement Section of the "Amended Hunting Agreement for 2014 Between the Oregon Department of Fish and Wildlife and the Warm Springs Tribe" incorporated herein by reference.

Stat. Auth.: ORS 496.138, ORS 496.146, ORS 496.162
Stats. Implemented: ORS 496.012, 496.138, ORS 496.162
Hist.: DFW 125-2015(Temp), f. & cert. ef. 9-2-15 thru 2-28-16

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**Rule Caption:** Additional Commercial Seine Net Salmon Seasons Set for the Mainstem Columbia River.
**Adm. Order No.:** DFW 126-2015(Temp)
**Filed with Sec. of State:** 9-10-2015
**Certified to be Effective:** 9-15-15 thru 9-30-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0031
**Rules Suspended:** 635-042-0031(T)
**Subject:** This amended rule adds six new 13-hour fishing periods to the ongoing non-Indian commercial fall seine net salmon fishery in zones 2-4 of the Columbia River. The start time for the first new period is 6:30 a.m. Tuesday, September 15, 2015. Allowed sales are subject to Individual Fishing Quotas (as defined in the 2015 seine permits) and include: Adipose or left ventral fin-clipped Chinook; adipose-clipped coho, pink and sockeye salmon; and shad. All legal salmon caught must be landed. Rule modifications are consistent with action taken September 10, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0031**
**Early Fall Salmon Season**

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at 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.

(a) Authorized fishing periods are as follows:

2:00 a.m. Monday, August 31 to 6:00 a.m. Monday, August 31 (4 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(c) Gear is restricted to drift gill nets only with 9-inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(e) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

(2) Non-Indian mainstem commercial seine fishery:

(a) Salmon and shad may be taken with seine gear by those individuals possessing a 2015 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 2-3 through August 26, 2015; and Zones 2–3 plus upper Zone 4 thereafter. The lower boundary for Zone 4 is described as a line from USCG light #10 "Red" on the Oregon shore at Henrici Landing across to a wing jetty on the Washington shore at river mile 90.25.

(b) Season: — Area:

6:00 a.m. to 8:00 p.m. Thursday, September 10 (14 hours) — Zones 2–3, 4;
6:00 a.m. to 8:00 p.m. Friday, September 11 (14 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 14 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Tuesday, September 15 (13 hours) — Zones 2–3;
6:30 a.m. to 7:30 p.m. Wednesday, September 16 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Thursday, September 17 (13 hours) — Zones 2–3;
6:30 a.m. to 7:30 p.m. Friday, September 18 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 21 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Tuesday, September 22 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Wednesday, September 23 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Thursday, September 24 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Friday, September 25 (13 hours) — Zones 2–3, 4;
6:30 a.m. to 7:30 p.m. Monday, September 28 (13 hours) — Zones 2–3, 4; and
6:30 a.m. to 7:30 p.m. Wednesday, September 30 (13 hours) — Zones 2–3, 4.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B, Lewis-B, Sandy, and Washougal rivers. Fishing in Select Area commercial fishing sites is prohibited.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes.

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2015 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted. Sorting of fish may continue after the fishing period ends.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

(i) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

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FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 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 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; 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DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. 9-2-15, cert. ef. 9-4-15 thru 9-30-15; DFW 126-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 9-30-15

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**Rule Caption:** Columbia River Treaty Indian Fall Commercial Gill Net Season Extended.
**Adm. Order No.:** DFW 127-2015(Temp)
**Filed with Sec. of State:** 9-10-2015
**Certified to be Effective:** 9-14-15 thru 10-31-15
**Notice Publication Date:**
**Rules Amended:** 635-041-0075
**Rules Suspended:** 635-041-0075(T)
**Subject:** This amended rule authorizes commercial sales, in Oregon, of fish caught during two additional fishing periods for the Treaty Indian fall commercial gill net fishery in the Columbia River and its Washington tributaries. The first additional fishing period is scheduled to begin at 6:00 a.m. Monday, September 14, 2015. Rule modifications are consistent with action taken September 10, 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. Tuesday, September 8 through 6:00 p.m. Saturday, September 12, 2015 (4.5 days);

(B) 6:00 a.m. Monday, September 14 through 6:00 p.m. Saturday, September 19, 2015 (5.5 days);

(C) 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, except the closure at the mouth of Spring Creek through September 25, is the larger area described in OAR 635-041-0045(11).

(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. 9-14-15 thru 10-31-15

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**Rule Caption:** Modified Angling Regulations for North Twin Lake due to Rotenone Treatment in October 2015.
**Adm. Order No.:** DFW 128-2015(Temp)
**Filed with Sec. of State:** 9-14-2015
**Certified to be Effective:** 9-18-15 thru 12-31-15
**Notice Publication Date:**
**Rules Amended:** 635-018-0090
**Subject:** This amended rule liberalizes catch limits and harvest methods for North Twin Lake, in the Central angling zone, from September 18 through October 19, and modifies the angling closure dates to October 20 through the end of 2015. North Twin Lake is scheduled for treatment with Rotenone, a fish toxicant, in late October in order to remove unwanted fish species. The rule modifications provide sport fishers opportunities to salvage as many game fish as possible prior to this treatment.
**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 from September 18 through October 19, 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 October 20 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

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**Rule Caption:** Late Fall Commercial Salmon Season Set for the Mainstem Columbia River
**Adm. Order No.:** DFW 129-2015(Temp)
**Filed with Sec. of State:** 9-15-2015
**Certified to be Effective:** 9-15-15 thru 10-31-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0060
**Subject:** This amended rule authorizes a 9-hour drift gill net fishing period in zones 4-5 of the mainstem Columbia River. The start time for the period is 9:00 p.m. Tuesday, September 15, 2015. Allowed sales include Chinook, coho, pink and sockeye salmon and shad. Rule modifications are consistent with action taken September 14,

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: 9:00 p.m. Tuesday, September 15 to 6:00 a.m. Wednesday, September 16, 2015 (9 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. 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

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## Department of Forestry
## Chapter 629

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

**Adm. Order No.:** DOF 1-2015

**Filed with Sec. of State:** 9-4-2015

**Certified to be Effective:** 9-4-15

**Notice Publication Date:** 5-1-2015

**Rules Amended:** 629-041-0515

**Subject:** There are two changes that are being made to the Central Oregon Forest Protection District boundary. The first is within The Dalles Unit and the second is within the Prineville Unit as described below, respectively.

When Central Oregon District "The Dalles Unit" was established in the OAR's there were four isolated parcels of private ownership classified and protected by ODF within the Warm Springs Reservation boundaries located south of the "McQuinn Strip" in Wasco County. One 80-acre parcel located in the E 1/2 of the NE 1/4 of section 6, T6S, R11E was under private ownership. Since then this parcel has been purchased by the Warm Springs Tribe and as such was removed from the assessment rolls since the fire protection responsibilities were now the responsibility of the Warm Springs Tribe. Since ODF no longer protects this parcel, it is being removed from the District Boundary description of the OAR's and the subsections are being re-lettered.

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

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

**Rules Coordinator:** Sabrina Perez—(503) 945-7210

**629-041-0515**
**Central Oregon Forest Protection District Boundary**

The area within the Central Oregon Forest Protection District is contained within the boundaries of five units described in subsections (1), (2), (3), (4) and (5) of this rule.

(1) The boundary of the Baldy Unit of the Central Oregon Forest Protection District is as follows: Beginning at the northwest corner of section 8, township 10 south, range 23 east, Wheeler County; thence east to the northwest corner of section 10, township 10 south, range 23 east, Wheeler County; thence north to the northwest corner of the southwest quarter of section 27, township 9 south, range 23 east, Wheeler County; thence east to the northwest corner of the southwest quarter of section 26, township 9 south, range 23 east, Wheeler County; thence north to the northwest corner of section 26, township 9 south, range 23 east, Wheeler County; thence east to the northeast corner of section 25, township 9 south, range 23 east, Wheeler County; thence south to the northeast corner of section 1, township 10 south, range 23 east, Wheeler County; thence east to the northwest corner of section 4, township 10 south, range 24 east, Wheeler County; thence north to the northwest corner of section 33, township 9 south, range 24 east, Wheeler County; thence east to the northeast corner of section 34, township 9 south, range 24 east, Wheeler County; thence south to the northeast corner of section 3, township 10 south, range 24 east, Wheeler County; thence east to the northeast corner of section 3, township 10 south, range 25 east, Wheeler County; thence south to the northeast corner of section 27, township 10 south, range 25 east, Wheeler County; thence east to the northeast corner of section 26, township 10 south, range 25 east, Wheeler County; thence south to the southeast corner of section 23, township 11 south, range 25 east, Wheeler County; thence west to the southeast corner of section 22, township 11 south, range 25 east, Wheeler County; thence south to the southeast corner of section 27, township 11 south, range 25 east, Wheeler County; thence west to the southwest corner of section 29, township 11 south, range 25 east, Wheeler County; thence north to the southwest corner of section 20, township 11 south, range 25 east, Wheeler County; thence west to the southwest corner of section 23, township 11 south, range 24 east, Wheeler County; thence north to the southwest corner of section 14, township 11 south, range 24 east, Wheeler County; thence west to the southwest corner of section 15, township 11 south, range 24 east, Wheeler County; thence north to the southwest corner of section 34, township 10 south, range 24 east, Wheeler County; thence west to the southeast corner of section 31, township 10 south, range 24 east, Wheeler County; thence south to the southeast corner of section 6, township 11 south, range 24 east, Wheeler County; thence west to the southeast corner of the southwest quarter of section 6, township 11 south, range 24 east, Wheeler County; thence south to the southeast corner of the southwest quarter of section 7, township 11 south, range 24 east, Wheeler County; thence west to the southeast corner of section 12, township 11 south, range 23 east, Wheeler County; thence south to the southeast corner of section 13, township 11 south, range 23 east, Wheeler County; thence west to the southeast corner of the southwest quarter of section 13, township 11 south, range 23 east, Wheeler County; thence south to the southeast corner of the northwest quarter of section 24, township 11 south, range 23 east, Wheeler County; thence west to the southeast corner of the northeast quarter of section 23, township 11 south, range 23 east, Wheeler County; thence south to the southeast corner of section 23, township 11 south, range 23 east, Wheeler County; thence west to the southeast corner of section 22, township 11 south, range 23 east, Wheeler County; thence south to the southeast corner of section 34, township 11 south, range 23 east, Wheeler County; thence west to the southwest corner of section 36, township 11 south, range 22 east, Wheeler County; thence north to the southwest corner of section 24, township 11 south, range 22 east, Wheeler County; thence west to the southwest corner of section 23, township 11 south, range 22 east, Wheeler County; thence north to the northwest corner of the southwest quarter of the southwest quarter of section 11, township 11 south, range 22 east, Wheeler County; thence east to the northwest corner of the southwest quarter of the southwest quarter of section 12, township 11 south, range 22 east, Wheeler County; thence north to the northwest corner of section 1, township 11 south, range 22 east, Wheeler County; thence east to the northwest corner of section 6, township 11 south, range 23 east, Wheeler County; thence north to the northwest corner of section 31, township 10 south, range 23 east, Wheeler County; thence east to the northwest corner of section 32, township 10 south, range 23 east, Wheeler County; thence north to the point of beginning.

(2) The boundary of the Deschutes Unit of the Central Oregon Forest Protection District is as follows: Beginning at the point where the common boundary of Jefferson County and Linn County, as set forth in ORS 201.160 and 201.220, intersect with the southern boundary of the Warm Springs Indian Reservation, in or near section 5, township 11 south, range 8 east, Jefferson County; thence southerly and easterly on the southern boundary of the Warm Springs Indian Reservation to center of the main channel of Jefferson Creek, in or near section 4, township 11 south, range 8 east, Jefferson County; thence easterly and southerly on the center of the main channel of Jefferson Creek to the junction with the Metolius River, in or near section 35, township 11 south, range 9 east, Jefferson County; thence northerly, southerly and easterly on the center of the main channel of the Metolius River to the line of ordinary high water, at an elevation of approximately 1,945 feet, of the Metolius Arm of Lake Billy Chinook in or near section 18, township 11 south, range 11 east, Jefferson County; thence easterly on the southern line of ordinary high water, at an elevation of approximately 1,945 feet, of the Metolius Arm of Lake Billy Chinook to the most northerly point of the western side of the Deschutes Arm of Lake Billy Chinook in or near section 27, township 11 south, range 12 east, Jefferson County; thence northerly to the line of ordinary high water, at an elevation of approximately 1,945 feet, at the most northerly point of the eastern side of the Deschutes Arm of Lake Billy Chinook in or near section 22, township 11 south, range 12 east, Jefferson County; thence northerly and easterly on the line of ordinary high water, at an elevation of approximately 1,945 feet, of Lake Billy Chinook to the face of the Round Butte Dam in section 22, township 11 south, range 12 east, Jefferson County; thence westerly on the face of the Round Butte Dam to the center of the main channel of the Deschutes River in or near section 22, township 11 south, range 12 east, Jefferson County; thence northerly on the center of the main channel of the Deschutes River to the line of ordinary high water of Lake Simtustus in or near section 10, township 11 south, range 12 east, Jefferson County; thence northerly and easterly on the line of ordinary high water of the eastern side of Lake Simtustus to the common line between section 25 and section 36, township 10 south, range 12 east, Jefferson County; thence east to the northeast corner of section 36, township 10 south, range 12 east, Jefferson County; thence south to the southeast corner of the northeast quarter of section 36, township 10 south, range 12 east, Jefferson County; thence west to the southeast corner of the northwest quarter of section 36, township 10 south, range 12 east, Jefferson County; thence south to the southeast corner of the northeast quarter of the southwest quarter of section 36, township 10 south, range 12 east, Jefferson County; thence west to the southeast corner of the northwest quarter of the southwest quarter of section 36, township 10 south, range 12 east, Jefferson County; thence south to southeast corner of section 2, township 11 south, range 12 east, Jefferson County; thence west to the southeast corner of the southwest quarter of the southeast quarter of section 2, township 11 south, range 12 east, Jefferson County; thence south to the northeast corner of the northwest quarter of the southeast quarter of section 11, township 11 south, range 12 east, Jefferson County; thence east to the northwest corner of the southeast quarter of section 12 township 11 south, range 12 east, Jefferson County; thence north to the northwest corner of the northeast quarter of section 12, township 11 south, range 12 east, Jefferson County; thence east to the northeast corner of the northwest quarter of the northeast quarter of section 12, township 11 south, range 12 east, Jefferson County; thence south to the centerline of Jefferson County Road 624 in section 12, township 11 south, range 12 east, Jefferson County; thence easterly on the centerline of Jefferson County Road 624 to the common line between the east half and the west half of section 7, township 11 south, range 13 east, Jefferson County; thence south to the northeast corner of the southwest quarter of section 7, township 11 south, range 13 east, Jefferson County; thence east to the northeast corner of the southwest quarter of section 8, township 11 south, range 13 east, Jefferson County; thence south to the northeast corner of the south half of the northeast quarter of the southwest quarter of section 8, township 11 south, range 13 east, Jefferson County; thence east to the northeast corner of the southwest quarter of the southeast quarter of section 8, township 11 south, range 13 east, Jefferson County; thence south to the northeast corner of the northwest quarter of the northeast quarter of section 20, township 11 south, range 13 east, Jefferson County; thence east to the northeast corner of section 20, township 11 south, range 13 east, Jefferson County; thence south to the southeast corner of the northeast quarter of the southeast quarter of section 20, township 11 south, range 13 east, Jefferson County; thence west to the southeast corner of the northwest quarter of the southeast quarter of section 20 township 11 south, range 13 east, Jefferson County; thence south to the southeast corner of the southwest quarter of the southeast quarter of section 20, township 11 south, range 13 east, Jefferson County; thence west to the southeast corner of the southwest quarter of section 20, township 11 south, range 13 east, Jefferson County; thence south to the southeast corner of the northeast quarter of the northwest quarter of section 29, township 11 south, range 13

east, Jefferson County; thence west to the southeast corner of the northwest quarter of the northwest quarter of section 29, township 11 south, range 13 east, Jefferson County; thence south to the southeast corner of southwest quarter of the northwest quarter of section 29, township 11 south, range 13 east, Jefferson County; thence west to the southeast corner of the northwest quarter of section 30, township 11 south, range 13 east, Jefferson County; thence south to the southeast corner of the northeast quarter of the southwest quarter of section 30, township 11 south, range 13 east, Jefferson County; thence west to the common line between township 11 south, range 12 east and township 11 south range 13 east, Jefferson County; thence south to the southeast corner of the northeast quarter of section 36, township 11 south, range 12 east, Jefferson County; thence west to the southwest corner of the southeast quarter of the northeast quarter of section 36, township 11 south, range 12 east, Jefferson County; thence north to the southwest corner of the northeast quarter of the northeast quarter of section 36, township 11 south, range 12 east, Jefferson County; thence west to the southeast corner of the northwest quarter of the northwest quarter of section 36, township 11 south, range 12 east, Jefferson County; thence south to the southeast corner of the southwest quarter of the northwest quarter of section 36, township 11 south, range 12 east, Jefferson County; thence west to the southeast corner of the southwest quarter of the northeast quarter of section 35 township 11 south, range 12 east, Jefferson County; thence south to the northeast corner of the southwest quarter of the northeast quarter of section 11, township 12 south, range 12 east, Jefferson County; thence east to the northeast corner of the southwest quarter of the northeast quarter of section 12, township 12 south, range 12 east, Jefferson County; thence south to the southeast corner of the northwest quarter of the northeast quarter of section 13, township 12 south, range 12 east, Jefferson County; thence west to the southeast corner of the northeast quarter of the northeast quarter of section 14, township 12 south, range 12 east, Jefferson County; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 26, township 12 south, range 12 east, Jefferson County; thence west to the southeast corner of the northwest quarter of the northeast quarter of section 26, township 12 south, range 12 east, Jefferson County; thence south to the northeast corner of the southwest quarter of the southeast quarter of section 26, township 12 south, range 12 east, Jefferson County; thence east to the northwest corner of the southwest quarter of the southeast quarter of section 25, township 12 south, range 12 east, Jefferson County; thence north to the northwest corner of the southeast quarter of section 25, township 12 south, range 12 east, Jefferson County; thence east to the northwest corner of the northeast quarter of the southeast quarter of section 25, township 12 south, range 12 east, Jefferson County; thence north to the northwest corner of the southeast quarter of the northeast quarter of section 25, township 12 south, range 12 east, Jefferson County; thence east to the common line between township 12 south, range 12 east and township 12 south, range 13 east, Jefferson County; thence south to the northwest corner of section 30, township 12 south, range 13 east, Jefferson County; thence east to the northeast corner of the northwest quarter of section 30, township 12 south, range 13 east, Jefferson County; thence south to the northeast corner of the southeast quarter of the northwest quarter of section 30, township 12 south, range 13 east, Jefferson County; thence east to the northeast corner the southwest quarter of the northeast quarter of section 30, township 12 south, range 13 east, Jefferson County; thence south to the northeast corner of the northwest quarter of the southeast quarter of section 30, township 12 south, range 13 east, Jefferson County; thence east to the northwest corner of the southeast quarter of section 29, township 12 south, range 13 east, Jefferson County; thence north to the northwest corner of the northeast quarter of section 29, township 12 south, range 13 east, Jefferson County; thence east to the northeast corner of section 29, township 12 south, range 13 east, Jefferson County; thence south to the centerline of U.S. Highway 97, in section 29, township 12 south, range 13 east, Jefferson County; thence southerly on the centerline of U.S. Highway 97 to the common boundary of Deschutes County and Jefferson County, as set forth in ORS 201.090 and 201.160, in or near section 32, township 13 south, range 13 east, Jefferson County; thence westerly on the common boundary of Deschutes County and Jefferson County, as set forth in ORS 201.090 and 201.160, to the center of the main channel of the Deschutes River in or near section 33, township 13 south, range 12 east, Jefferson County; thence southerly on the center of the main channel of the Deschutes River to the common line between section 31, township 16 south, range 12 east and section 6, township 17 south, range 12 east, Deschutes County; thence west to the southeast corner of section 36, township 16 south, range 11 east, Deschutes County; thence south to the northeast corner of section 1, township 18 south, range 11 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 6, township 18 south, range 12 east, Deschutes County; thence south to the northeast corner of the northwest quarter of section 7, township 18 south, range 12 east, Deschutes County; thence east to the northeast corner of section 7, township 18 south, range 12 east, Deschutes County; thence south to the northeast corner of section 18, township 18 south, range 12 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 17, township 18 south, range 12 east, Deschutes County; thence south to the northeast corner of the southwest quarter of section 17, township 18 south, range 12 east, Deschutes County; thence east to the northwest corner of the southeast quarter of section 16, township 18 south, range 12 east, Deschutes County; thence north to the northwest corner of the northeast quarter of section 16, township 18 south, range 12 east, Deschutes County; thence east to the northeast corner of the northwest quarter of the northwest quarter of section 15, township 18 south, range 12 east, Deschutes County; thence south to the northeast corner of the northwest quarter of the southwest quarter of section 22, township 18 south, range 12 east, Deschutes County; thence east to the northeast corner of the southeast quarter of section 23, township 18 south, range 12 east, Deschutes County; thence south to the northeast corner of the southeast quarter of section 26, township 18 south, range 12 east, Deschutes County; thence east to the northeast corner of the southeast quarter of section 25, township 18 south, range 12 east, Deschutes County; thence south to the northeast corner of section 36, township 18 south, range 12 east, Deschutes County; thence east to the northeast corner of section 31, township 18 south, range 13 east, Deschutes County; thence south to the northeast corner of section 6, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 4, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of the southwest quarter of section 4, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the southeast quarter of section 4, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of section 9, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 10, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of the southwest quarter of section 10, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the southeast quarter of section 10, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of the southeast quarter of section 15, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the southwest quarter of section 14, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of the northwest quarter of section 23, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of section 23, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of the southeast corner of section 23, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the southwest quarter of section 24, township 19 south, range 13 east, Deschutes County; thence south to the northeast corner of the southwest quarter of section 25, township 19 south, range 13 east, Deschutes County; thence east to the northeast corner of the southwest quarter of section 30, township 19 south, range 14 east, Deschutes County; thence south to the northeast corner of the northwest quarter of section 6, township 20 south, range 14 east, Deschutes County; thence east to the northeast corner of section 6, township 20 south, range 14 east, Deschutes County; thence south to the northeast corner of section 7, township 20 south, range 14 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 8, township 20 south, range 14 east, Deschutes County; thence south to the northeast corner of the northwest quarter of section 17, township 20 south, range 14 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 16, township 20 south, range 14 east, Deschutes County; thence south to the northeast corner of the southwest quarter of section 16, township 20 south, range 14 east, Deschutes County; thence east to the northeast corner of the southeast quarter of section 14, township 20 south, range 14 east, Deschutes County; thence south to the northeast corner of section 21, township 20 south, range 14 east, Deschutes County; thence east to the northeast corner of the northwest quarter of section 22, township 20 south, range 14 east, Deschutes County; thence south to the northeast corner of the northwest quarter of section 27, township 20 south, range 14 east, Deschutes County; thence east to the northwest corner of section 30, township 20 south, range 15 east, Deschutes County; thence north to the northwest corner of section 19, township 20 south, range 15 east, Deschutes County; thence east to the northeast corner of section 24, township 20 south, range 15 east, Deschutes County; thence south to the southeast corner of the northeast quarter of section 25, township 20 south, range 15 east, Deschutes County; thence west to the southeast corner of the northwest

quarter of section 26, township 20 south, range 15 east, Deschutes County; thence south to the southeast corner of the southwest quarter of section 26, township 20 south, range 15 east, Deschutes County; thence west to the southeast corner of section 27, township 20 south, range 15 east, Deschutes County; thence south to the southeast corner of the southwest quarter of the southwest quarter of section 3, township 21 south, range 15 east, Deschutes County; thence west to the southeast corner of section 4, township 21 south, range 15 east, Deschutes County; thence south to the northeast corner of section 16, township 21 south, range 15 east, Deschutes County; thence east to the northeast corner of section 13, township 21 south, range 15 east, Deschutes County; thence south to the northeast corner of section 24, township 21 south, range 15 east, Deschutes County; thence east to the northwest corner of section 20, township 21 south, range 16 east, Deschutes County; thence north to the northwest corner of the southwest quarter of section 17, township 21 south, range 16 east, Deschutes County; thence east to the northwest corner of the southwest quarter of section 16, township 21 south, range 16 east, Deschutes County; thence north to the northwest corner of section 16, township 21 south, range 16 east, Deschutes County; thence east to the northeast corner of section 16, township 21 south, range 16 east, Deschutes County; thence south to the southeast corner of section 16, township 21 south, range 16 east, Deschutes County; thence west to the southeast corner of the southwest quarter of section 16, township 21 south, range 16 east, Deschutes County; thence south to the northeast corner of the southeast quarter of the southwest quarter of section 28, township 21 south, range 16 east, Deschutes County; thence east to the northeast corner of the southwest quarter of the northwest quarter of section 27, township 21 south, range 16 east, Deschutes County; thence south to the southeast corner of the northwest quarter of the southwest quarter of section 27, township 21 south, range 16 east, Deschutes County; thence west to the southeast corner of the northwest quarter of the southeast quarter of section 28, township 21 south, range 16 east, Deschutes County; thence south to the northeast corner of the southeast quarter of section 33, township 21 south, range 16 east, Deschutes County; thence east to the northeast corner of the southwest quarter of section 34, township 21 south, range 16 east, Deschutes County; thence south to the northeast corner of the southwest quarter of section 3, township 22 south, range 16 east, Deschutes County; thence east to the northeast corner of the southeast quarter of section 3, township 22 south, range 16 east, Deschutes County; thence south to the southeast corner of the southeast quarter of section 3, township 22 south, range 16 east, Deschutes County; thence west to the southeast corner of the southwest quarter of section 3, township 22 south, range 16 east, Deschutes County; thence south to the southeast corner of the northwest quarter of section 10, township 22 south, range 16 east, Deschutes County; thence west to the southeast corner of the northeast quarter of section 9, township 22 south, range 16 east, Deschutes County; thence south to the northeast corner of the southeast quarter of section 21, township 22 south, range 16 east, Deschutes County; thence east to the northeast corner of the southwest quarter of section 22, township 22 south, range 16 east, Deschutes County; thence south to the northeast corner of the northwest quarter of section 27, township 22 south, range 16 east, Deschutes County; thence east to the northeast corner of section 26, township 22 south, range 16 east, Deschutes County; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 2, township 23 south, range 16 east, Lake County; thence west to the southeast corner of the northwest quarter of the northeast quarter of section 2, township 23 south, range 16 east, Lake County; south to the southeast corner of the southwest quarter of the northeast quarter of section 2, township 23 south, range 16 east, Lake County; thence west to the southeast corner of the northwest quarter of section 2, township 16 south, range 23 east, Lake County; thence south to the southeast corner of the northeast quarter of the southwest quarter of section 2, township 23 south, range 16 east, Lake County; thence west to the southeast corner of the northwest quarter of the southwest quarter of section 2, township 23 south, range 16 east, Lake County; thence south to the southeast corner of the southwest quarter of the southwest quarter of section 2, township 23 south, range 16 east, Lake County; thence west to the southeast corner of section 3, township 23 south, range 16 east, Lake County; thence south to the southeast corner of section 22, township 23 south, range 16 east, Lake County; thence west to the southeast corner of section 21, township 23 south, range 16 east, Lake County; thence south to the southeast corner of section 33, township 23 south, range 16 east, Lake County; thence west to the southwest corner of section 35, township 23 south, range 15 east, Lake County; thence north to the southwest corner of section 26, township 23 south, range 15 east, Lake County; thence west to the southeast corner of the southwest quarter of the southeast quarter of section 28, township 23 south, range 15 east, Lake County; thence south to the southeast corner of the northwest quarter of the southeast quarter of section 33, township 23 south, range 15 east, Lake County; thence west to the southeast corner of the northeast quarter of the southeast quarter of section 35, township 23 south, range 14 east, Lake County; thence south to the southeast corner of section 35, township 23 south, range 14 east, Lake County; thence west to the southeast corner of the southwest quarter of section 35, township 23 south, range 14 east, Lake County; thence south to the southeast corner of the southwest quarter of section 2, township 24 south, range 14 east, Lake County; thence west to the southeast corner of section 3, township 24 south, range 15 east, Lake County; thence south to the southeast corner of the northeast quarter of section 10, township 24 south, range 14 east, Lake County; thence west to the southeast corner of the northeast quarter of section 9, township 24 south, range 14 east, Lake County; thence south to the southeast corner of section 9, township 24 south, range 14 east, Lake County; thence west to the southeast corner of the southwest quarter of section 9, township 24 south, range 14 east, Lake County; thence south to the southeast corner of the northwest quarter of section 16, township 24 south, range 16 east, Lake County; thence west to the southeast corner of the northeast quarter of section 17, township 24 south, range 14 east, Lake County; thence south to the southeast corner of section 17, township 24 south, range 14 east, Lake County; thence west to the southeast corner of section 18, township 24 south, range 14 east, Lake County; thence south to the southeast corner of section 19, township 24 south, range 14 east, Lake County; thence west to the southeast corner of section 24, township 24 south, range 13 east, Lake County; thence south to the southeast corner of section 25, township 24 south, range 13 east, Lake County; thence west to the southeast corner of the southwest quarter of the southeast quarter of section 26, township 24 south, range 13 east, Lake County; thence south to the southeast corner of the southwest quarter of the northeast quarter of section 35, township 24 south, range 13 east, Lake County; thence west to the southeast corner of the northwest quarter of section 35, township 24 south, range 13 east, Lake County; thence south to the southeast corner of the northeast quarter of the southwest quarter of section 35, township 24 south, range 13 east, Lake County; thence west to the southeast corner of the northeast quarter of the southeast quarter of section 34, township 24 south, range 13 east, Lake County; thence south to the southeast corner of section 34, township 24 south, range 13 east, Lake County; thence west to the southeast corner of section 33, township 24 south, range 13 east, Lake County; thence south to the southeast corner of section 4, township 25 south, range 13 east, Lake County; thence west to the southeast corner of the southwest quarter of section 4, township 25 south, range 13 east, Lake County; thence south to the southeast corner of the southwest quarter of section 9, township 25 south, range 13 east, Lake County; thence west to the southwest corner of section 12, township 25 south, range 12 east, Lake County; thence north to the southwest corner of section 36, township 24 south, range 12 east, Lake County; thence west to the southwest corner of section 31, township 24 south, range 12 east, Lake County; thence northerly on the common boundary of Klamath County and Lake County, as set forth in ORS 201.180 and 201.190, to the boundary of Deschutes County, as set forth in ORS 201.090, in or near section 6, township 23 south, range 12 east, Lake County; thence westerly on the common boundary of Deschutes County and Klamath County, as set forth in ORS 201.090 and 201.180, to the boundary of Lane County, as set forth in ORS 201.200, in or near section 34, township 22 south, range 6 east, Deschutes County; thence northerly on the common boundary of Deschutes County and Lane County, as set forth in ORS 201.090 and 201.200, to the boundary of Linn County, as set forth in ORS 201.220, near McKenzie Pass, township 15 south, range 8 east, Deschutes County; thence northerly on the common boundary of Deschutes County and Linn County, as set forth in ORS 201.090 and 201.220, to the boundary of Jefferson County, as set forth in ORS 201.160, in or near section 1, township 14 south, range 7 east, Deschutes County; thence northerly on the common boundary of Jefferson County and Linn County, as set forth in ORS 201.160 and 201.220, to the point of beginning.

(3) The boundary of the John Day-Ochoco Unit of the Central Oregon Forest Protection District is as follows: Beginning at the northwest corner of section 6, township 11 south, range 16 east, Jefferson County; thence east to the common boundary of Jefferson County and Wheeler County, as set forth in ORS 201.160 and 201.350, in or near section 1, township 11 south, range 19 east, Jefferson County; thence southerly on the common boundary of Jefferson County and Wheeler County, as set forth in ORS 201.160 and 201.350, to the northwest corner of section 6, township 12 south, range 20 east, Wheeler County; thence east to the northeast corner of section 4, township 12 south, range 20 east, Wheeler County; thence south to the northeast corner of section 9, township 12 south, range 20 east, Wheeler County; thence east to the northeast corner of section 10, township

12 south, range 20 east, Wheeler County; thence south to the northeast corner of section 15, township 12 south, range 20 east, Wheeler County; thence east to the northeast corner of section 18, township 12 south, range 23 east, Wheeler County; thence south to the northeast corner of section 19, township 12 south, range 23 east, Wheeler County; thence east to the northeast corner of section 20, township 12 south, range 23 east, Wheeler County; thence south to the northeast corner of section 29, township 12 south, range 23 east, Wheeler County; thence east to the northeast corner of section 29, township 12 south, range 24 east, Wheeler County; thence south to the northeast corner of section 32, township 12 south, range 24 east, Wheeler County; thence east to the northeast corner of section 33, township 12 south, range 24 east, Wheeler County; thence south to the northeast corner of section 4, township 13 south, range 24 east, Wheeler County; thence east to the northeast corner of section 2, township 13 south, range 24 east, Wheeler County; thence south to the northeast corner of section 11, township 13 south, range 24 east, Wheeler County; thence east to the northeast corner of section 7, township 13 south, range 25 east, Wheeler County; thence south to the northeast corner of section 18, township 13 south, range 25 east, Wheeler County; thence east to the common boundary of Grant County and Wheeler County, as set forth in ORS 201.120 and 201.350, in or near section 18, township 13 south, range 26 east, Grant County; thence northerly on the common boundary of Grant County and Wheeler County, as set forth in ORS 201.120 and 201.350, to the northwest corner of section 6, township 9 south, range 26 east, Grant County; thence westerly on the common boundary of Grant County and Wheeler County, as set forth in ORS 201.120 and 201.350, to the southwest corner of section 31, township 8 south, range 26 east, Grant County; thence northerly on the common boundary of Grant County and Wheeler County, as set forth in ORS 201.120 and 201.350, to the southwest corner of section 19, township 8 south, range 26 east, Grant County; thence west to the southwest corner of section 23, township 8 south, range 25 east, Wheeler County; thence north to the southwest corner of section 11, township 8 south, range 25 east, Wheeler County; thence west to the southeast corner of section 12, township 8 south, range 24 east, Wheeler County; thence south to the southeast corner of section 13, township 8 south, range 24 east, Wheeler County; thence west to the southeast corner of the southwest quarter of section 15, township 8 south, range 23 east, Wheeler County; thence south to the southeast corner of the southwest quarter of section 22, township 8 south, range 23 east, Wheeler County; thence west to the southeast corner of section 19, township 8 south, range 23 east, Wheeler County; thence south to the southeast corner of section 30, township 8 south, range 23 east, Wheeler County; thence west to the southeast corner of section 25, township 8 south, range 22 east, Wheeler County; thence south to the southeast corner of section 36, township 8 south, range 22 east, Wheeler County; thence east to the northeast corner of section 1, township 9 south, range 22 east, Wheeler County; thence south to the southeast corner of section 1, township 9 south, range 22 east, Wheeler County; thence west to the southeast corner of section 3, township 9 south, range 22 east, Wheeler County; thence south to the southeast corner of the northeast quarter of section 15, township 9 south, range 22 east, Wheeler County; thence west to the southwest corner of the northwest quarter of section 17, township 9 south, range 22 east, Wheeler County; thence north to the northwest corner of section 5, township 9 south, range 22 east, Wheeler County; thence east to the southwest corner of section 33, township 8 south, range 22 east, Wheeler County; thence north to the southwest corner of section 28, township 8 south, range 22 east, Wheeler County; thence west to the southwest corner of section 29, township 8 south, range 22 east, Wheeler County; thence north to the southwest corner of section 20, township 8 south, range 22 east, Wheeler County; thence west to the southwest corner of section 23, township 8 south, range 21 east, Wheeler County; thence north to the southwest corner of the northwest quarter of section 23, township 8 south, range 21 east, Wheeler County; thence west to the southwest corner of the northwest quarter of section 21, township 8 south, range 21 east, Wheeler County; thence north to the northwest corner of section 9, township 8 south, range 21 east, Wheeler County; thence north to the northwest corner of section 4, township 8 south, range 21 east, Wheeler County; thence north to the northwest corner of section 21, township 7 south, range 21 east, Wheeler County; thence east to the northwest corner of section 23, township 7 south, range 21 east, Wheeler County; thence north to the northwest corner of section 11, township 7 south, range 21 east, Wheeler County; thence east to the northwest corner of section 7, township 7 south, range 22 east, Wheeler County; thence north to the southwest corner of section 30, township 6 south, range 22 east, Wheeler County; thence west to the southwest corner of section 26, township 6 south, range 21 east, Wheeler County; thence north to the northwest corner of section 26, township 6 south, range 21 east, Wheeler County; thence east to the northwest corner of section 30, township 6 south, range 22 east, Wheeler County; thence north to the northwest corner of the south half of section 19, township 6 south, range 22 east, Wheeler County; thence east to the northwest corner of the southwest quarter of section 21, township 6 south, range 22 east, Wheeler County; thence north to the northwest corner of section 21, township 6 south, range 22 east, Wheeler County; thence east to the northwest corner of section 23, township 6 south, range 22 east, Wheeler County; thence north to the northwest corner of the southwest quarter of section 14, township 6 south, range 22 east, Wheeler County; thence east to the northwest corner of the southwest quarter of section 13, township 6 south, range 22 east, Wheeler County; thence north to the northwest corner of section 1, township 6 south, range 22 east, Gilliam County; thence east to the southwest corner of section 35, township 5 south, range 23 east, Gilliam County; thence north to the northwest corner of section 35, township 5 south, range 23 east, Gilliam County; thence east to the northwest corner of section 35, township 5 south, range 24 east, Gilliam County; thence north to the northwest corner of section 26, township 5 south, range 24 east, Gilliam County; thence east to the northwest corner of section 29, township 5 south, range 25 east, Morrow County; thence north to the northwest corner of section 20, township 5 south, range 25 east, Morrow County; thence east to the northwest corner of section 22, township 5 south, range 25 east, Morrow County; thence north to the northwest corner of the southwest quarter of section 10, township 5 south, range 25 east, Morrow County; thence east to the northeast corner of the southwest quarter of section 11, township 5 south, range 25 east, Morrow County; thence south to the northeast corner of the northwest quarter of section 14, township 5 south, range 25 east, Morrow County; thence east to the northwest corner of the northeast quarter of section 16, township 5 south, range 26 east, Morrow County; thence north to the northwest corner of the northeast quarter of section 4, township 5 south, range 26 east, Morrow County; thence east to the northwest corner of section 6, township 5 south, range 27 east, Morrow County; thence north to the northwest corner of section 31, township 4 south, range 27 east, Morrow County; thence east to the northwest corner of section 32, township 4 south, range 27 east, Morrow County; thence north to the northwest corner of section 29, township 4 south, range 27 east, Morrow County; thence east to the northwest corner of section 27, township 4 south, range 27 east, Morrow County; thence north to the northwest corner of section 15, township 4 south, range 27 east, Morrow County; thence east to the northwest corner of section 14, township 4 south, range 27 east, Morrow County; thence north to the northwest corner of section 11, township 4 south, range 27 east, Morrow County; thence east to the northwest corner of section 12, township 4 south, range 27 east, Morrow County; thence north to the northwest corner of the southwest quarter of section 1, township 4 south, range 27 east, Morrow County; thence east to the northwest corner of the southwest quarter of section 6, township 4 south, range 28 east, Morrow County; thence north to the northwest corner of section 6, township 4 south, range 28 east, Morrow County; thence east to the northwest corner of section 5, township 4 south, range 28 east, Morrow County; thence north to the northwest corner of section 32, township 3 south, range 28 east, Morrow County; thence east to the northeast corner of section 36, township 3 south, range 28 east, Morrow County; thence south to the southeast corner of section 36, township 4 south, range 28 east, Morrow County; thence east to the northeast corner of section 1, township 5 south, range 28 east, Morrow County; thence south to the southeast corner of section 36, township 5 south, range 28 east, Morrow County; thence east to the northeast corner of section 6, township 6 south, range 29 east, Morrow County; thence south to the common boundary of Grant County and Morrow County, as set forth in ORS 201.120 and 201.250, in or near section 31, township 6 south, range 29 east, Morrow County; thence westerly on the common boundary of Grant County and Morrow County, as set forth in ORS 201.120 and 201.250, to the northwest corner of lot 4, section 6, township 7 south, range 29 east, Grant County; thence south to the center of the main channel of North Fork John Day River in section 7, township 7 south, range 29 east, Grant County; thence easterly on the center of the main channel of North Fork John Day River to the common boundary of Grant County and Umatilla County, as set forth in ORS 201.120 and 201.300, in or near section 2, township 7 east, range 31 south, Grant County; thence easterly on the common boundary of Grant County and Umatilla County, as set forth in ORS 201.120 and 201.300, to the boundary of Union County, as set forth in ORS 201.310, in or near section 5, township 7 south, range 35 east, Grant County; thence easterly on the common boundary of Grant County and Union County, as set forth in ORS 201.120 and 201.310, to the boundary of Baker County, as set forth in ORS 201.010, in section 13, township 7 south, range 36 east; thence southerly on the common boundary of Baker County and Grant County, as set forth in

ORS 201.010 and 201.120, to the boundary of Malheur County, as set forth in ORS 201.230, in or near section 24, township 15 south, range 36 east, Grant County; thence southerly on the common boundary of Grant County and Malheur County, as set forth in ORS 201.120 and 201.230, to the boundary of Harney County, as set forth in ORS 201.130, in or near section 36, township 17 south, range 36 east, Grant County; thence westerly on the common boundary of Grant County and Harney County, as set forth in ORS 201.120 and 201.130, to the northeast corner of section 6, township 18 south, range 36 east, Harney County; thence south to the northeast corner of section 7, township 18 south, range 36 east, Harney County; thence east to the northeast corner of the northwest quarter of section 8, township 18 south, range 36 east, Harney County; thence south to the southeast corner of the northwest quarter of section 17, township 18 south, range 36 east, Harney County; thence west to the southeast corner of the northeast quarter of section 13, township 18 south, range 35 east, Harney County; thence south to the southeast corner of section 13, township 18 south, range 35 east, Harney County; thence west to the southeast corner of the southwest quarter of section 18, township 18 south, range 35 east, Harney County; thence south to the southeast corner of the northwest quarter of section 30, township 18 south, range 35 east, Harney County; thence west to the southeast corner of the northeast quarter of section 25, township 18 south, range 34 east, Harney County; thence south to the southeast corner of the northeast quarter of section 36, township 18 south, range 34 east, Harney County; thence west to the southwest corner of the northwest quarter of section 35, township 18 south, range 34 east, Harney County; thence north to the southwest corner of section 23, township 18 south, range 34 east, Harney County; thence west to the southwest corner of section 21, township 18 south, range 34 east, Harney County; thence north to the southwest corner of section 16, township 18 south, range 34 east, Harney County; thence west to the southwest corner of section 18, township 18 south, range 34 east, Harney County; thence north to the southeast corner of section 13, township 18 south, range 33 1/2 east, Harney County; thence west to the southeast corner of section 14, township 18 south, range 33 east, Harney County; thence south to the northeast corner of section 2, township 19 south, range 33 east, Harney County; thence east to the northeast corner of section 1, township 19 south, range 33 east, Harney County; thence south to the northeast corner of section 25, township 20 south, range 33 east, Harney County; thence east to the northeast corner of section 29, township 20 south, range 33 1/2 east, Harney County; thence south to the southeast corner of section 32, township 20 south, range 33 1/2 east, Harney County; thence west to the northeast corner of section 5, township 21 south, range 33 east, Harney County; thence south to the northeast corner of section 17, township 21 south, range 33 east, Harney County; thence east to the northeast corner of section 16, township 21 south, range 33 east, Harney County; thence south to the northeast corner of section 21, township 21 south, range 33 east, Harney County; thence east to the northeast corner of section 22, township 21 south, range 33 east, Harney County; thence south to the southeast corner of section 27, township 21 south, range 33 east, Harney County; thence west to the southeast corner of section 29, township 21 south, range 33 east, Harney County; thence south to the southeast corner of the northeast quarter of section 32, township 21 south, range 33 east, Harney County; thence west to the southwest corner of the northwest quarter of section 31, township 21 south, range 33 east, Harney County; thence north to the southeast corner of section 25, township 21 south, range 32 1/2 east, Harney County; thence west to the southeast corner of the southwest quarter of section 27, township 21 south, range 32 east, Harney County; thence south to the southeast corner of the southwest quarter of section 34, township 21 south, range 32 east, Harney County; thence west to the southwest corner of section 31, township 21 south, range 32 east, Harney County; thence north to the southwest corner of section 18, township 21 south, range 32 east, Harney County; thence west to the southwest corner of section 14, township 21 south, range 31 east, Harney County; thence north to the southwest corner of the northwest quarter of section 14, township 21 south, range 31 east, Harney County; thence west to the southeast corner of the northwest quarter of section 15, township 21 south, range 31 east, Harney County; thence south to the southeast corner of the southwest quarter of section 15, township 21 south, range 31 east, Harney County; thence west to the southwest corner of the southeast quarter of the southeast quarter of section 16, township 21 south, range 31 east, Harney County; thence north to the southwest corner of the southeast quarter of the northeast quarter of section 16, township 21 south, range 31 east, Harney County; thence west to the southwest corner of the northeast quarter of section 16, township 21 south, range 31 east, Harney County; thence north to the southwest corner of the southeast quarter of section 9, township 21 south, range 31 east, Harney County; thence west to the southwest corner of section 9, township 21 south, range 31 east, Harney County; thence north to the southwest corner of section 4, township 21 south, range 31 east, Harney County; thence west to the southeast corner of section 1, township 21 south, range 30 east, Harney County; thence south to the southeast corner of the northeast quarter of section 13, township 21 south, range 30 east, Harney County; thence west to the southwest corner of the northwest quarter of section 13, township 21 south, range 30 east, Harney County; thence north to the southwest corner of section 12, township 21 south, range 30 east, Harney County; thence west to the southwest corner of the southeast quarter of the southeast quarter of section 11, township 21 south, range 30 east, Harney County; thence north to the southwest corner of the southeast quarter of the southeast quarter of section 2, township 21 south, range 30 east, Harney County; thence west to the southwest corner of section 2, township 21 south, range 30 east, Harney County; thence north to the southwest corner of northwest quarter of section 26, township 20 south, range 30 east, Harney County; thence west to the southwest corner of the northeast quarter of section 27, township 20 south, range 30 east, Harney County; thence north to the southwest corner of the southeast quarter of section 15, township 20 south, range 30 east, Harney County; thence west to the southwest corner of section 16, township 20 south, range 30 east, Harney County; thence north to the southwest corner of section 4, township 20 south, range 30 east, Harney County; thence west to the southeast corner of section 3, township 20 south, range 29 east, Harney County; thence south to the southeast corner of section 10, township 20 south, range 29 east, Harney County; thence west to the southeast corner of section 9, township 20 south, range 29 east, Harney County; thence south to the northeast corner of section 21, township 20 south, range 29 east, Harney County; thence east to the northeast corner of section 22, township 20 south, range 29 east, Harney County; thence south to the southeast corner of section 34, township 20 south, range 29 east, Harney County; thence west to the southeast corner of the southwest quarter of section 34, township 20 south, range 29 east, Harney County; thence south to the southeast corner of the northwest quarter of section 3, township 21 south, range 29 east, Harney County; thence west to the southwest corner of the northeast quarter of section 4, township 21 south, range 29 east, Harney County; thence north to the northwest corner of the northeast quarter of section 4, township 21 south, range 29 east, Harney County; thence east to the northwest corner of section 3, township 21 south, range 29 east, Harney County; thence north to the southwest corner of section 22, township 20 south, range 29 east, Harney County; thence west to the southeast corner of section 20, township 20 south, range 29 east, Harney County; thence south to the southeast corner of section 29, township 20 south, range 29 east, Harney County; thence west to the southeast corner of section 25, township 20 south, range 28 east, Harney County; thence south to the southeast corner of section 36, township 20 south, range 28 east, Harney County; thence west to the southeast corner of section 35, township 20 south, range 28 east, Harney County; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 11, township 21 south, range 28 east, Harney County; thence east to the northeast corner of the southeast quarter of the northwest quarter of section 12, township 21 south, range 28 east, Harney County; thence south to the northeast corner of the southwest quarter of section 25, township 21 south, range 28 east, Harney County; thence east to the northeast corner of the southeast quarter of section 25, township 21 south, range 28 east, Harney County; thence south to the northeast corner of section 1, township 22 south, range 28 east, Harney County; thence east to the northeast corner of the northwest quarter of section 6, township 22 south, range 29 east, Harney County; thence south to the northeast corner of the northwest quarter of section 7, township 22 south, range 29 east, Harney County; thence east to the northeast corner of section 9, township 22 south, range 29 east, Harney County; thence south to the southeast corner of northeast quarter of section 21, township 22 south, range 29 east, Harney County; thence west to the southeast corner of the northeast quarter of section 20, township 22 south, range 29 east, Harney County; thence south to the southeast corner of section 32, township 22 south, range 29 east, Harney County; thence west to the southeast corner of the southwest quarter of section 36, township 22 south, range 28 east, Harney County; thence south to the southeast corner of the southwest quarter of section 1, township 23 south, range 28 east, Harney County; thence west to the southeast corner of section 2, township 23 south, range 28 east, Harney County; thence south to the southeast corner of section 11, township 23 south, range 28 east, Harney County; thence west to the southwest corner of section 11, township 23 south, range 28 east, Harney County; thence north to the southwest corner of section 2, township 23 south, range 28 east, Harney County; thence west to the southwest corner of section 5, township 23 south, range 28 east, Harney County; thence north to the southwest corner of section 17, township 22 south,

range 28 east, Harney County; thence west to the southwest corner of section 15, township 22 south, range 26 east, Harney County; thence north to the northwest corner of the southwest quarter of section 10, township 22 south, range 26 east, Harney County; thence east to the northwest corner of the southwest quarter of section 11, township 22 south, range 26 east, Harney County; thence north to the northwest corner of section 2, township 22 south, range 26 east, Harney County; thence east to the northwest corner of the northeast quarter of section 2, township 22 south, range 26 east, Harney County; thence north to the northwest corner of the northeast quarter of section 35, township 21 south, range 26 east, Harney County; thence east to the northwest corner of section 31, township 21 south, range 27 east, Harney County; thence north to the northwest corner of section 19, township 21 south, range 27 east, Harney County; thence east to the northwest corner of section 21, township 21 south, range 27 east, Harney County; thence north to the southwest corner of section 4, township 21 south, range 27 east, Harney County; thence west to the southwest corner of section 6, township 21 south, range 27 east, Harney County; thence north to the southwest corner of section 31, township 20 south, range 27 east, Harney County; thence west to the southeast corner of section 34, township 20 south, range 26 east, Harney County; thence south to the southeast corner of the northeast quarter of section 10, township 21 south, range 26 east, Harney County; thence west to the southeast corner of the northeast quarter of section 8, township 21 south, range 26 east, Harney County; thence south to the southeast corner of section 17, township 21 south, range 26 east, Harney County; thence west to the southeast corner of section 18, township 21 south, range 26 east, Harney County; thence south to the southeast corner of section 19, township 21 south, range 26 east, Harney County; thence west to the southeast corner of section 24, township 21 south, range 25 east, Harney County; thence south to the southeast corner of section 36, township 21 south, range 25 east, Harney County; thence west to the southeast corner of section 34, township 21 south, range 25 east, Harney County; thence south to the southeast corner of section 3, township 22 south, range 25 east, Harney County; thence west to the southeast corner of section 6, township 22 south, range 25 east, Harney County; thence south to the southeast corner of section 7, township 22 south, range 25 east, Harney County; thence west to the southwest corner of section 10, township 22 south, range 24 east, Harney County; thence north to the southwest corner of section 34, township 21 south, range 24 east, Crook County; thence west to the southwest corner of the southeast quarter of section 33, township 21 south, range 24 east, Crook County; thence north to the northwest corner of the northeast quarter of section 21, township 21 south, range 24 east, Crook County; thence east to the northwest corner of section 22, township 21 south, range 24 east, Crook County; thence north to the northwest corner of section 10, township 21 south, range 24 east, Crook County; thence east to the northwest corner of section 11, township 21 south, range 24 east, Crook County; thence north to the northwest corner of section 2, township 21 south, range 24 east, Crook County; thence east to the northwest corner of section 1, township 21 south, range 24 east, Crook County; thence north to the northwest corner of section 12, township 20 south, range 24 east, Crook County; thence east to the common boundary of Crook County and Harney County, as set forth in ORS 201.070 and 201.130, in or near section 7, township 20 south, range 25 east, Harney County; thence northerly on the common boundary of Crook County and Harney County, as set forth in ORS 201.070 and 201.130, to the northwest corner of section 7, township 19 south, range 25 east, Harney County; thence east to the northwest corner of section 8, township 19 south, range 25 east, Harney County; thence north to the southwest corner of section 32, township 18 south, range 25 east, Crook County; thence west to the southwest corner of the southeast quarter of section 31, township 18 south, range 25 east, Crook County; thence north to the northwest corner of the northeast quarter of section 31, township 18 south, range 25 east, Crook County; thence east to the northwest corner of section 35, township 18 south, range 25 east, Crook County; thence north to the northwest corner of section 26, township 18 south, range 25 east, Crook County; thence east to common boundary of Crook and Grant County, as set forth in ORS 201.070 and 201.120, in or near section 30, township 18 south, range 26 east, Grant County; thence northerly on the common boundary of Crook and Grant County, as set forth in ORS 201.070 and 201.120, to the southwest corner of section 31, township 16 south, range 26 east, Grant County; thence west to the southwest corner of section 35, township 16 south, range 25 east, Crook County; thence north to the southwest corner of section 2, township 16 south, range 25 east, Crook County; thence west to the southwest corner of section 5, township 16 south, range 25 east, Crook County; thence north to the northwest corner of section 5, township 16 south, range 25 east, Crook County; thence west to the northeast corner of section 2, township 16 south, range 24 east, Crook County; thence south to the southeast corner of section 11, township 16 south, range 24 east Crook County; thence west to the southwest corner of section 11, township 16 south, range 24 east, Crook County; thence north to the northwest corner of section 2, township 16 south, range 24 east, Crook County; thence west to the northeast corner of the northwest quarter of section 4, township 16 south, range 21 east, Crook County; thence south to the southeast corner of the northwest quarter of section 4, township 16 south, range 21 east, Crook County; thence west to the southeast corner of the northeast quarter section 5, township 16 south, range 21 east, Crook County; thence south to the southeast corner of section 8, township 16 south, range 21 east, Crook County; thence west to the southwest corner of section 8, township 16 south, range 20 east, Crook County; thence north to the southwest corner of section 5, township 16 south, range 20 east, Crook County; thence west to the southwest corner of section 5, township 16 south, range 18 east, Crook County; thence north to the northwest corner of section 5, township 16 south, range 18 east, Crook County; thence west to the southwest corner of section 34, township 15 south, range 17 east, Crook County; thence north to the northwest corner of section 27, township 15 south, range 17 east, Crook County; thence west to the southwest corner of section 20, township 15 south, range 17 east, Crook County; thence north to the northwest corner of the southwest quarter section of section 5, township 15 south, range 17 east, Crook County; thence east to line of ordinary high water of Ochoco Reservoir Crook County; thence easterly following the southerly line of ordinary high water of Ochoco Reservoir to the confluence of Ochoco Creek channel and Ochoco Reservoir at the line of ordinary high water in or near the center of section 35, township 14 south, range 17 east, Crook County; thence north to the center line of Ochoco Highway US 26 in or near section 35 township 14 south, range 17 east, Crook County; thence westerly following the center line of Ochoco Highway US 26 to NE Mill Creek Road in or near the northeast corner of section 34, township 14 south, range 17 east, Crook County; thence northerly following the center line of NE Mill Creek Road to the common section line of section 22 and section 27, township 14 south, range 17 east, Crook County; thence west to the southwest corner of section 20, township 14 south, range 17 east, Crook County; thence north to the southwest corner of section 17, township 14 south, range 17 east, Crook County; thence west to the southwest corner of section 18, township 14 south, range 17 east, Crook County; thence north to the southwest corner of section 7, township 14 south, range 17 east, Crook County; thence west to the southwest corner of section 11, township 14 south, range 16 east, Crook County; thence north to the southwest corner of section 35, township 13 south, range 16 east, Crook County; thence west to the southwest corner of section 33, township 13 south, range 16 east, Crook County; thence north to the southwest corner of section 21, township 13 south, range 16 east, Crook County; thence west to the common boundary of Crook County and Jefferson County, as set forth in ORS 201.070 and 201.160, in or near section 19, township 13 south, range 15 east, Crook County; thence northerly on the common boundary of Crook County and Jefferson County, as set forth in ORS 201.070 and 201.160, to the northwest corner of section 31, township 12 south, range 15 east, Jefferson County; thence east to the northwest corner of section 34, township 12 south, range 15 east, Jefferson County; thence north to the northwest corner of section 3, township 12 south, range 15 east, Jefferson County; thence east to the northwest corner of section 6, township 12 south, range 16 east, Jefferson County; thence north to the point of beginning.

(4) The boundary of the Maury Mountains Unit of the Central Oregon Forest Protection District is as follows: Beginning at the northwest corner of section 18, township 17 south, range 18 east, Crook County; thence east to the northeast corner of section 15, township 17 south, range 21 east, Crook County; thence south to the northeast corner of section 27, township 17 south, range 21 east, Crook County; thence east to the northeast corner of section 25, township 17 south, range 21 east, Crook County; thence south to the southeast corner of section 36, township 17 south, range 21 east, Crook County; thence east to the northeast corner of section 1, township 18 south, range 21 east, Crook County; thence south to the southeast corner of section 13, township 18 south, range 21 east, Crook County; thence west to the southeast corner of section 18, township 18 south, range 20 east, Crook County; thence south to the southeast corner of section 30, township 18 south, range 20 east, Crook County; thence west to the southwest corner of section 29, township 18 south, range 19 east, Crook County; thence north to the southwest corner of section 20, township 18 south, range 19 east, Crook County; thence west to the southwest corner of section 19, township 18 south, range 19 east, Crook County; thence north to the southwest corner of section 18, township 18 south, range 19 east, Crook County; thence west to the southwest corner of section 16, township 18

south, range 18 east, Crook County; thence north to the southwest corner of section 4, township 18 south, range 18 east, Crook County; thence west to the southwest corner of section 5, township 18 south, range 18 east, Crook County; thence north to the northwest corner of section 5, township 18 south, range 18 east, Crook County; thence west to the southwest corner of section 31, township 17 south, range 18 east, Crook County; thence north to the point of beginning.

(5) The area within the The Dalles Unit of the Central Oregon Forest Protection District is contained within the boundaries of seven parcels described in subsections (a), (b), (c), (d), (e), (f) and (g) below:

(a) Beginning at the point where the common boundary of Hood River County and Multnomah County, as set forth in ORS 201.030 and 201.260, intersect with the line of ordinary low water on the southern shore of the Columbia River in or near section 23, township 2 north, range 7 east, Hood River County; thence easterly on the line of ordinary low water on the southern shore of the Columbia River to the common line between section 12, township 2 north, range 12 east and section 7, township 2 north, range 13 east, Wasco County; thence south to the northern boundary of the Bonneville Power Administration's Big Eddy-Troutdale powerline right of way in or near section 19, township 1 north, range 13 east, Wasco County; thence easterly on the northern boundary of the Bonneville Power Administration's Big Eddy-Troutdale powerline right of way to the common line between section 16, township 1 north, range 13 east and section 21, township 1 north, range 13 east, Wasco County; thence east to the centerline of the Northern Wasco County Public Utility District's Dufur-The Dalles powerline right of way in or near section 21, township 1 north, range 13 east, Wasco County; thence southerly on the centerline of the Northern Wasco County Public Utility District's Dufur-The Dalles powerline right of way to the common line between section 23, township 1 south, range 13 east and section 26, township 1 south, range 13 east, Wasco County; thence west to southeast corner of the southwest quarter of the southeast quarter of section 23, township 1 south, range 13 east, Wasco County; thence south to the northeast corner of the southwest quarter of the northeast quarter of section 35, township 1 south, range 13 east; Wasco County; thence east to the northeast corner of the southeast quarter of the northeast quarter of section 35, township 1 north, range 13 east, Wasco County; thence south to the centerline of U.S. Highway 197 in or near section 35, township 1 south, range 13 east; Wasco County; thence southerly on the centerline of U.S. Highway 197 to the centerline of Dufur Gap County Road, in section 11, township 2 south, range 13 east Wasco County; thence southerly on the centerline of Dufur Gap County Road to the centerline of U.S. Highway 197, in section 11, township 3 south, range 13 east, Wasco County; thence southerly on the centerline of U.S. Highway 197 to the center of the main channel of White River, in section 11, township 4 south, range 13 east, Wasco County; thence westerly on the center of the main channel of White River to the common line between section 25, township 4 south, range 12 east and section 30, township 4 south, range 13 east, Wasco County; thence south to the southeast corner of section 36, township 4 south, range 12 east, Wasco County; thence west to the southeast corner of section 34, township 4 south, range 12 east, Wasco County; thence south to the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation in or near section 10, township 6 south, range 12 east, Wasco County; thence westerly on the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation to the common boundary of Clackamas County and Wasco County, as set forth in ORS 201.030 and 201.330, in or near section 7, township 5 south, range 9 east, Wasco County; thence northerly on the common boundary of Clackamas County and Wasco County, as set forth in ORS 201.030 and 201.330, to the boundary of Hood River County, as set forth in ORS 201.140, in or near section 5, township 4 south, range 9 east, Wasco County; thence northerly on the common boundary of Clackamas County and Hood River County, as set forth in ORS 201.030 and 201.140, to the boundary of Multnomah County, as set forth in ORS 201.260, in or near section 27, township 1 south, range 8 east, Hood River County; thence northerly on the common boundary of Hood River County and Multnomah County, as set forth in ORS 201.140 and 201.260, to the point of beginning.

(b) Beginning at the northwest corner of the northwest quarter of the southwest quarter of section 2, township 6 south, range 11 east, Wasco County; thence east to the northeast corner of the northwest quarter of the southwest quarter of section 2, township 6 south, range 11 east, Wasco County; thence south to the northeast corner of the southwest quarter of the southwest quarter of section 2, township 6 south, range 11 east, Wasco County; thence east to the northeast corner of the southeast quarter of the southwest quarter of section 2, township 6 south, range 11 east, Wasco County; thence south to the southeast corner of the northeast quarter of the northwest quarter of section 11, township 6 south, range 11 east, Wasco County; thence west to the southwest corner of the northeast quarter of the northwest quarter of section 11, township 6 south, range 11 east, Wasco County; thence north to the southwest corner of the southeast quarter of the southwest quarter of section 2, township 6 south, range 11 east, Wasco County; thence west to the southwest corner of the southeast quarter of section 3, township 6 south, range 11 east, Wasco County; thence north to the southwest corner of the northwest quarter of the southeast quarter of section 3, township 6 south, range 11 east, Wasco County; thence west to the southwest corner of the northwest quarter of the southwest quarter of section 3, township 6 south, range 11 east, Wasco County; thence north to the northeast corner of the southwest quarter of section 3, township 6 south, range 11 east, Wasco County; thence east to the northwest corner of the northeast quarter of the southwest quarter of section 3, township 6 south, range 11 east, Wasco County; thence north to the northwest corner of the northeast quarter of the northwest quarter of section 3, township 6 south, range 11 east, Wasco County; thence east to the northeast corner of the northwest quarter of section 3, township 6 south, range 11 east, Wasco County; thence south to the northeast corner of the southwest quarter of section 3, township 6 south, range 11 east, Wasco County; thence east to the point of beginning.

(c) Beginning at the northwest corner of the southeast quarter of section 9, township 6 south, range 11 east, Wasco County; thence east to the northeast corner of the northwest quarter of the southwest quarter of section 10 township 6 south, range 11 east, Wasco County; thence south to the southeast corner of lot 4 of section 10, township 6 south, range 11 east, Wasco County; thence west to the southwest corner of lot 4 of section 10, township 6 south, range 11 east, Wasco County; thence north to the southwest corner of the northwest quarter of the southwest quarter of section 10, township 6 south, range 11 east, Wasco County; thence west to the southeast corner of the northwest quarter of the southeast quarter of section 9, township 6 south, range 11 east, Wasco County; thence south to the southeast corner of lot 2 of section 9, township 6 south, range 11 east, Wasco County; thence west to the southwest corner of lot 2 of section 9, township 6 south, range 11 east, Wasco County; thence north to the point of beginning.

(d) Beginning at the northwest corner of the northeast quarter of the southwest quarter of section 11, township 6 south, range 11 east, Wasco County; thence east to the northeast corner of the northeast quarter of the southwest quarter of section 11, township 6 south, range 11 east, Wasco County; thence south to the southwest corner of the northeast quarter of the southwest quarter of section 11, township 6 south, range 11 east, Wasco County; thence west to the southwest corner of the northeast quarter of the southwest quarter of section 11, township 6 south, range 11 east, Wasco County; thence north to the point of beginning.

(e) Beginning at the northwest corner of the northeast quarter of the southeast quarter of section 6, township 6 south, range 12 east, Wasco County; thence east to the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation in section 6, township 6 south, range 12 east, Wasco County; thence easterly on the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation to the common line between section 4, township 6 south, range 12 east and section 9, township 6 south, range 12 east, Wasco County; thence west to the southwest corner of the southeast quarter of the southeast quarter of section 6, township 6 south, range 12 east, Wasco County; thence north to the point of beginning.

(f) Beginning at the southwest corner of section 29, township 5 south, range 11 east, Wasco County; thence north to the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation in section 29, township 5 south, range 11 east, Wasco County; thence easterly on the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation to the common line between the southwest quarter of the southwest quarter and the southeast quarter of the southwest quarter of section 29, township 5 south, range 11 east, Wasco County; thence south to the southeast corner of the southwest quarter of the southwest quarter of section 29, township 5 south, range 11 east; Wasco County; thence west to the point of beginning.

(g) Beginning at the southwest corner of the southeast quarter of the southwest quarter of section 35, township 5 south, range 11 east, Wasco County; thence north to the McQuinn Line and the northern boundary of the Warm Springs Indian Reservation in section 35, township 5 south, range 11 east, Wasco County; thence easterly on the McQuinn Line and northern boundary of the Warm Springs Indian Reservation to the common line between section 35, township 5 south, range 11 east and section 36, township 5 south, range 11 east, Wasco County; thence south to the southeast corner of section 35, township 5 south, range 11 east, Wasco County; thence west to the point of beginning.

Stat. Auth.: ORS 477.225

Stats. Implemented: ORS 477.225
Hist.: DOF 10-1998, f. & cert. ef. 8-13-98; DOF 2-1999, f. & cert. ef. 5-13-99; DOF 1-2005, f. & cert. ef. 1-7-05; DOF 1-2015, f. & cert. ef. 9-4-15

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

**Rule Caption:** Standards for Data Collection on Race, Ethnicity, Preferred Language and Disability Status
**Adm. Order No.:** DHSD 6-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 8-1-2015
**Rules Adopted:** 407-070-0000
**Subject:** ORS 413.161, passed as House Bill 2134 during the 2013 legislative session, mandates that the Oregon Health Authority (Authority) collaborate with the Department of Human Services (Department) to adopt by rule uniform standards, based on local, statewide and national best practices, for the collection of data on race, ethnicity, preferred spoken, signed, and written languages and disability status. The statute requires that the Authority and the Department use the standards, to the greatest extent practicable, in conducting surveys and in all programs in which the Authority or the Department collects, records, or reports such data. The statute also requires that the Authority and the Department review and update the standards at least once every two years to ensure the standards are efficient, uniform and consistent with best practices. The Authority adopted OAR 943-070-0000 to 943-070-0070 in compliance with HB2134 and ORS 413.61. The Department adopts this rule which incorporates the Authority's rules by reference.
**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

**407-070-0000**
**Race, Ethnicity, Language, and Disability Demographic Data Collection Standards**

(1) Pursuant to ORS 413.161, the Oregon Health Authority (Authority), in collaboration with the Department of Human Services (Department), established uniform standards, based on local, statewide and national best practices, for the collection of data on race, ethnicity, preferred spoken and written languages and disability status. These standards are set forth in OAR 943-070-0000 to 943-070-0070.

(2) The Department adopts and incorporates by reference the rules established in OAR 943-070-0000 to 943-070-0070 for those matters related to data collection standards.

Stat. Auth.: ORS 409.050 & 413.161
Stats. Implemented: ORS 413.161
Hist.: DHSD 6-2015, f. 8-28-15, cert. ef. 9-1-15

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## Department of Human Services, Child Welfare Programs
## Chapter 413

**Rule Caption:** Amending rule relating to guardianship assistance
**Adm. Order No.:** CWP 14-2015(Temp)
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15 thru 2-14-16
**Notice Publication Date:**
**Rules Amended:** 413-070-0917
**Subject:** Effective August 12, 2015, OAR 413-070-0917 is amended to establish eligibility requirements for state-funded guardianship assistance in compliance with Oregon Laws 2015, chapter 840.
**Rules Coordinator:** Kris Skaro—(503) 945-6067

**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 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.

(c) Be placed in the United States or a possession thereof.

(d) 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.

(e) Demonstrate a strong attachment to the potential guardian.

(f) Be in the care or custody of the Department or participating tribe and placed with the potential guardian who meets the relative definition as described in OAR 413-070-0000(74)(a) to (e).

(g) Be eligible for Title IV-E under OAR 413-100-0000 to 413-100-0345.

(2) 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.

(c) Be in the care or custody of the Department and placed with the potential guardian who meets the relative definition as described in OAR 413-070-0000(74)(a) to (e).

(3) Each sibling of a child or young adult eligible for guardianship assistance is also eligible for 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 or participating tribe agree that both of the following are appropriate:

(A) Placing the child's sibling in the home of the potential guardian or guardian; and

(B) Guardianship as a permanency plan for the sibling.

(4) The child must be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(5) 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.

(6) 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.

(7) 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

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**Rule Caption:** Adopting and incorporating by reference the July 1, 2015, Behavior Rehabilitation Services (BRS) Rates Table
**Adm. Order No.:** CWP 15-2015(Temp)
**Filed with Sec. of State:** 8-26-2015
**Certified to be Effective:** 8-26-15 thru 2-21-16
**Notice Publication Date:**

**Rules Amended:** 413-090-0085
**Subject:** OAR 413-090-0085 is being amended to incorporate by reference and adopt 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 OAR 410-170-0110. 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.
**Rules Coordinator:** Kris Skaro—(503) 945-6067

**413-090-0085**
**Billing and Payment for Services and Placement-Related Activities**

(1) Billable care day (see OAR 410-170-0020):

(a) The BRS contractor (see OAR 410-170-0020) is compensated for a billable care day services (see OAR 410-170-0020) and placement-related activities (see OAR 410-170-0020) rates on a fee-for-service basis in accordance with OAR 410-170-0110.

(b) The BRS contractor may include an overnight transitional visit by the BRS client (see OAR 410-170-0020) to another placement in its billable care days. The BRS contractor must:

(A) Receive prior approval for the transitional visit from the Department;

(B) Ensure that the transitional visit is in support of the MSP (see OAR 410-170-0020) goals related to transition;

(C) Pay the hosting placement at the established absent day rate for the sending BRS provider (see OAR 410-170-0020); and

(D) Ensure the hosting placement will not seek any reimbursement from the Department for the care of the visiting BRS client.

(2) Absent Days:

(a) The BRS contractor is compensated for an absent day at the absent day rate in order to hold a BRS program placement for a BRS client with the prior approval of the BRS client's caseworker (see OAR 410-170-0020).

(b) Notwithstanding OAR 410-170-0110(4), the BRS contractor may request prior approval from the BRS client's caseworker to be reimbursed for more than 8 but no more than 14 calendar days of home visits in a month for a BRS client. However, any additional days of home visits approved under this rule will be paid at the absent day rate.

(3) The BRS contractor may only be reimbursed for the BRS type of care (see OAR 410-170-0020) authorized in the contract with the Department.

(4) Invoice Form:

(a) The BRS contractor must submit to the Department a monthly invoice in a format acceptable to the Department, on or after the first day of the month following the month in which services and placement-related activities were provided to the BRS client. The monthly invoice must specify the number of billable care days and absent days for each BRS client in that month.

(b) The BRS contractor must provide upon request, in a format approved by the Department, written documentation of each BRS client's location for each day claimed as a billable care day and an absent day.

(5) Billable care day and absent day rates for BRS services provided on or after July 1, 2015, are in the "BRS Rates Table", dated July 1, 2015, which is adopted as Exhibit 1 and incorporated by reference into this rule. A printed copy may be obtained from the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495
Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 15-2015(Temp), f. & cert. ef. 8-26-15 thru 2-21-16

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**Rule Caption:** Changing rules relating to the consideration of relatives and current caretakers as adoptive resources
**Adm. Order No.:** CWP 16-2015(Temp)
**Filed with Sec. of State:** 9-1-2015
**Certified to be Effective:** 9-1-15 thru 2-27-16
**Notice Publication Date:**
**Rules Amended:** 413-070-0516, 413-070-0518, 413-070-0519, 413-120-0010, 413-120-0020, 413-120-0021, 413-120-0035, 413-120-0710, 413-120-0720, 413-120-0730, 413-120-0760
**Rules Suspended:** 413-120-0500, 413-120-0510(T), 413-120-0521, 413-120-0541, 413-120-0570, 413-120-0580, 413-120-0590, 413-120-0710(T), 413-120-0010(T)
**Subject:** The Department of Human Services, Office of Child Welfare Programs, is amending rules to comply with Oregon Laws 2015, chapter 795, section 5 (SB 741). The amendments state that the Department will give equal status and priority to relatives and current caretakers seeking to adopt as is given prospective adoptive parents when considering the ability to meet the safety, attachment, and well-being needs of the child. Further, the Department will prefer relatives and current caretakers over other persons seeking to adopt when considering suitability as prospective adoptive parents. The primary amendments are described below. Full rule text showing all amendments is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

Legal Permanency, Concurrent Planning, and Use of Permanency Committee

OAR 413-070-0516 - Use of Permanency Committee

- Adds section (6) to require a permanency committee be scheduled when a current caretaker requests consideration as a potential adoptive resource, but prior to the completion of an adoption home study for a child or sibling group

OAR 413-070-0518 - Composition, Scheduling, Responsibilities, and Recommendations of the Permanency Committee

- Adds section (7). Subsection (a) delineates the composition of the committee for purposes of review of a current caretaker

- (7)(b) provides that current caretaker, relative caretaker, and any other individual from the child's team can provide input and may be invited to present, but will be excused after presenting and answering any questions.

- (7)(c) specifies the considerations the permanency committee must review when considering the current caretaker or relative caregiver, such as the safety, attachment, and well-being needs of the child, and the current caretaker's or relative caregiver's history of compliance with certification standards

- (7)(d) requires the permanency committee to document and provide to the adoption worker any specific information the worker determines must be explored in the completed home adoption study for the current caretaker and relative caregiver.

OAR 413-070-0519 - Decision and Notice

- Amends (1) to exempt current caretaker and relative caregiver requests to be considered an adoptive resource from the provisions of section (1) since the permanency committee does not make a recommendation, and no decision is being made at this stage.

Adoption Placement Selection

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 a 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

- 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

OAR 413-120-0710 - Definitions

- Modifies definition of current caretaker in section (4) to conform with statute

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

**Rules Coordinator:** Kris Skaro—(503) 945-6067

**413-070-0516**
**Use of Permanency Committee**

A permanency committee must be scheduled when any of the following sections applies:

(1) The caseworker is recommending a change in permanency plan to guardianship. The permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and 413-070-0665.

(2) The caseworker is recommending a change in permanency plan to APPLA. The permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).

(3) A foster parent's request to be considered an adoptive resource as a current caretaker pursuant to OAR 413-120-0500 to 413-120-0595. The permanency committee provides a recommendation based upon the considerations in OAR 413-120-0570.

(4) A caseworker is considering 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).

(5) 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(5)(b).

(6) A current caretaker or relative caregiver requests consideration as a potential adoptive resource but prior to the completion of an adoption home study for a child or sibling group.

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

**413-070-0518**
**Composition, Scheduling, Responsibilities and Recommendations of the Permanency Committee**

(1) Composition. A permanency committee includes 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 section must meet the requirements of all of the following paragraphs:

(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) Scheduling. 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 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) Confidentiality. Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and OAR 413-010-0000 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 clarifying and 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.

(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 413-070-0516(6), review of 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; and

(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, and any other individual from the child's team who a caseworker 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 OAR 413-200-0301 to 413-200-0396;

(C) Any child abuse and neglect referrals made to the Department on behalf of the child or sibling group under consideration for adoption together that were assigned for assessment, closed at screening, or documented in the provider file or electronic case notes;

(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.

(d) The permanency committee must document and provide to the assigned adoption worker any specific information they determine must be explored in the completed 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

**413-070-0519**
**Decision and Notice**

(1) Except when a permanency committee is scheduled for the purpose of a current caretaker or relative caretaker 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) Each child's or young adult's attorney, if one has been appointed;

(c) Each child's or young adult's CASA, if one has been appointed;

(d) Each child's or young adult's tribal representative, 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) Each child's or young adult's substitute 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

**413-120-0010**
**Definitions**

The following definitions apply to OAR 413-120-0000 to 413-120-0060:

(1) "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.

(2) "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.

(3) "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.

(4) "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.

(5) "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.

(6) "Child" means a person under 18 years of age.

(7) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency committee or adoption committee meeting.

(8) "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.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "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.

(11) "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.

(12) "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.

(13) "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.

(14) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(15) "Refugee child" means, as defined under ORS 418.925, 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, sex, sexual orientation, 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, sex, sexual orientation, nationality, membership in a particular group, or political opinion.

(a) As used in this section, "persecution" means that harm or suffering will be inflicted upon the person to punish the person for possessing a particular belief or characteristic. "Persecution" does not include harm and suffering that is inflicted on persons generally by reason of civil or military strife in a country.

(b) As used in this section, "fear of persecution" means an apprehension or awareness, based on external objective facts, that the person will suffer persecution upon return to the person's country.

(16) "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) An adoptive parent 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.

(17) "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.

(18) "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.

[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

**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 assessment 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 assessment 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 413-120-0010(16)(a)–(c);

(B) A relative as defined in OAR 413-120-0010(16)(d) and a current caretaker; or

(C) A relative, as defined in OAR 413-120-0010(16)(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 the U.S. and OAR 413-120-0900 to 413-120-0970 applies.

(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

**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 or not 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

**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)–(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 child's best interest 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

**413-120-0500**
**Purpose**

These rules (OAR 413-120-0500 to 413-120-0595) establish the process by which a foster parent may request consideration as a current caretaker for the purpose of consideration as a potential adoptive resource as a part of permanency planning for a child or sibling group under consideration.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.285
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-1998(Temp), f.& cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999 f. & cert. ef. 4-29-99; SOSCF 1-2001(Temp) f. & cert. ef. 1-24-01 thru 7-20-01; SOSCF 37-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 34-2010, f. & cert. ef. 12-29-10; Suspended by CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16

**413-120-0521**
**Substitute Care is a Temporary Resource**

(1) At initial placement, the caseworker must inform the foster parent that substitute care is intended as a temporary placement resource.

(2) In limited circumstances, a foster parent may become an adoptive resource for a child.

(3) The child's caseworker must keep the foster parent informed of the child's permanency plan and concurrent permanent plan.

Stat. Auth.: ORS 418.005, 419B.192
Stats. Implemented: ORS 418.005, 419B.192
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 34-2010, f. & cert. ef. 12-29-10; Suspended by CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16

**413-120-0541**
**When a Foster Parent Can Request Consideration as a Potential Adoptive Resource**

(1) A foster parent may request consideration as a current caretaker for a child or a sibling group under consideration in the legal custody of the Department when the requirements of all of the following subsections are met:

(a) Adoption is each child's identified permanency plan or concurrent permanent plan, and the Department determines it is in the best interest of the child or a sibling group under consideration to proceed with identifying potential adoptive resources.

(b) The child or at least one sibling in a sibling group under consideration has been in the physical custody of the foster parent for the most recent 12 consecutive months.

(c) The foster parent is willing to be considered as a potential adoptive resource for the child's siblings currently in substitute care and under consideration for adoption in the same adoptive family.

(d) The caseworker and the caseworker's supervisor have complied with the requirements of both of the following paragraphs:

(A) Reviewed the Department's diligent efforts to identify, contact, and place a child with relatives and to place siblings together as required under both Child Welfare Policy I-E.1.1, "Search for and Engagement of a Child's Relatives", OAR 413-070-0060 to 413-070-0087 and Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoption Resources", 413-120-0700 to 413-120-0760; and

(B) Confirmed there are no current Department actions to:

(i) Identify a child's relative as defined in OAR 413-120-0510(12)(a)–(c); or

(ii) Assess an identified relative as defined in OAR 413-120-0510(12)(a)–(c) who has either expressed an interest in and needs to be or currently is being assessed as a potential adoptive resource.

(2) When a child has one or more siblings, and two or more foster parents meet the requirements of subsections (1)(a) to (1)(c) of this rule, each may request consideration as a current caretaker, and if a request is received, the Department must review each request as described in these rules (OAR 413-120-0500 to 413-120-0595).

Stat. Auth.: ORS 418.005, 419B.192
Stats. Implemented: ORS 418.005, 419B.192
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 34-2010, f. & cert. ef. 12-29-10; Suspended by CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16

**413-120-0570**
**Permanency Committee Consideration of Current Caretaker**

(1) When a foster parent is requesting consideration as current caretaker, the Department schedules a permanency committee pursuant to Child Welfare Policy, I-E.3.6, "Legal Permanency, Concurrent Planning, and Use of Permanency Committee", OAR 413-070-0500 to 413-070-0519.

(2) The permanency committee must review all of the information presented to the committee and consider the extent to which the foster parent meets the following:

(a) The standards for an adoptive home under OAR 413-120-0246;

(b) The extent to which the foster parent has the knowledge, skills, abilities and commitment to raise the child and each sibling if there are siblings under consideration for adoption in the same adoptive family; and

(c) The extent to which the ongoing needs for safety, permanency, and well-being of each child and each sibling, if there are siblings under consideration for adoption in the same adoptive family, will be met under OAR 413-070-0640.

(3) After completing the review under section (2) of this rule, the permanency committee considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager or designee.

(4) When the permanency committee cannot reach agreement, each permanency committee member makes his or her respective recommendations known to the committee facilitator.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 34-2010, f. & cert. ef. 12-29-10; Suspended by CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16

**413-120-0580**
**Decision and Department Actions**

(1) The Child Welfare Program Manager or designee who makes the decision on behalf of the Department regarding a request of foster parent for consideration as a current caretaker must consider all of the following when making the decision:

(a) The considerations in OAR 413-120-0570(2);

(b) The information presented to the permanency committee; and

(c) The recommendations of the permanency committee.

(2) The Child Welfare Program Manager's or designee's decision regarding the request of a foster parent for consideration as a current caretaker must be documented on a form approved by the Department and must specify:

(a) Whether the foster parent will be considered; and

(b) When the foster parent will be considered as a current caretaker, whether the adoption selection process will also include consideration of a potential adoptive resource who either is a:

(A) Child's relative as defined in OAR 413-120-0510(12)(d); or

(B) General applicant.

(3) When the foster parent will be considered as a current caretaker, the certifier or an adoption worker must complete a home study update within 90 calendar days of the decision.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192
Hist.: CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04; Renumbered from 413-120-0550, CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 34-2010, f. & cert. ef. 12-29-10; Suspended by CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16

**413-120-0590**
**When a Relative is Identified**

When a child's relative is identified and expresses interest in being considered as a potential adoptive resource after a foster parent has requested consideration or a permanency committee has been scheduled, the Child Welfare Program Manager or designee must:

(1) Review the diligent efforts to identify and place a child with a relative and to place siblings together as required under Child Welfare Policy I-E.1.1., "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0063;

(2) Determine whether it is in the child's best interest for the relative to be considered; and

(3) Determine whether the permanency committee to consider the request of the foster parent will be held, cancelled, or postponed.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 34-2010, f. & cert. ef. 12-29-10; Suspended by CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16

**413-120-0710**
**Definitions**

The following definitions apply to OAR 413-120-0700 to 413-120-0760:

(1) "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.

(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 was sustained by that review and the review is complete.

(3) "Child" means a person under 18 years of age.

(4) "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.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "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.

(7) "General applicant" means an individual who:

(a) Is neither relative or current caretaker; and

(b) Has submitted a complete application to adopt a child.

(8) "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.

(9) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or potential permanent resource when the child or young adult likely is not returning to his or her parent.

(10) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(11) "Refugee child" has the meaning given that term per ORS 418.925.

(12) "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) An adoptive parent 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.

(13) "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.

(14) "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.

Stat. Auth.: ORS 109.309 & 418.005

Stats. Implemented: ORS 109.309, 418.005, 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 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

**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

**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 413-120-0710(12)(a)–(c).

(b) Except when (c) of this section applies, a relative as defined in OAR 413-120-0710(12)(d).

(c) When a child or sibling group has a current caretaker as defined in OAR 413-120-0710(4), the current caretaker and a relative as defined in OAR 413-120-0710(4)(a)–(d).

(d) A general applicant.

(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 413-120-0710(12)(d). Within 30 days of receipt of the written request, the Child Permanency Program Manager must review the request and determine whether or not 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

**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).

(6) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to OAR 413-120-0020.

(7) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to OAR 413-120-0021(2).

(8) 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

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## Department of Justice
## Chapter 137

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

**Adm. Order No.:** DOJ 9-2015

**Filed with Sec. of State:** 8-31-2015

**Certified to be Effective:** 9-1-15

**Notice Publication Date:** 8-1-2015

**Rules Adopted:** 137-140-0010, 137-140-0020, 137-140-0030, 137-140-0040, 137-140-0050, 137-140-0060, 137-140-0070

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

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

These administrative rules implement that legislation. The rules set forth guidelines and standards for use by custodians in the collection, retention, preservation and cataloging of biological evidence. The rules further adopt a standardized form for use by custodians when they give notice to district attorneys seeking disposal of biological evidence earlier than the statutory retention time-lines.

**Rules Coordinator:** Carol Riches—(503) 378-5987

**137-140-0010**
**Policy and Purpose**

(1) The integrity and significance of biological evidence in the detection, apprehension, and prosecution of criminal offenders, as well as the exoneration of persons wrongfully convicted of criminal offenses, is essential. The integrity, admissibility, and use in criminal cases is therefore contingent on the proper collection, preservation, retention, and cataloging of trace biological evidence. In addition, current DNA technology allows for very small amounts of biological evidence to be analyzed and tested for DNA and DNA profiling and inadvertent contamination of biological evidence is therefore possible if custodians who collect, retain, preserve, and catalogue biological evidence do not take safety and contamination prevention precautions. Accordingly, care must be taken to prevent contamination and loss of biological evidence.

(2) Effective June 29, 2009, the Oregon legislature enacted Oregon Laws 2009, chapter 489 (Senate Bill 310) that required custodians to preserve biological evidence that is collected as part of a criminal investigation into a covered offense or that was in the possession of the custodian prior to any person being convicted of a covered offense that could reasonably be used to incriminate or exculpate any person for a covered offense. The legislature further required custodians to preserve biological evidence in amounts and manners sufficient to develop a DNA profile from such biological evidence.

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

(4) It is the policy of the Oregon Attorney General that the best scientific methods should be used in the collection, retention, preservation, and cataloguing of trace biological evidence. However, when selecting detection, collection, preservation, retention, and cataloguing methods and biological evidence processing sequences, custodians should consider the circumstances of each case, the ambient conditions under which the evidence is detected, the discriminatory power of the different detection and collection techniques, and the need to preserve or collect other types of evidence. Custodian personnel responsible for the detection and collection of biological evidence should be aware that various types of evidence might be present during the processing of a crime scene and that evidence other than trace biological evidence may be more significant to a particular case and therefore should be given higher priority. Custodians should contact the Oregon State Police Forensic Services Division with any questions regarding best scientific practices for the collection, retention, preservation, and cataloguing of specific items of trace biological evidence not listed in these administrative rules.

(5) These administrative rules provide best practice scientific guidelines, procedures and techniques for the collection, retention, preservation, and cataloguing of trace biological evidence from crimes scenes, individuals, and items to be submitted to the Oregon State Police Forensic Services Division for testing, analysis, or DNA profiling for covered offenses. Therefore, a custodian's failure to follow a particular guideline or administrative rule should not be construed as rendering subject biological evidence inadmissible in any judicial or administrative proceeding. Instead, in the event of a custodian's failure to follow a particular guideline or administrative rule, it remains within the judgment of a court of competent jurisdiction to determine the relevance, admissibility and weight to be given for any biological evidence.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

**137-140-0020**
**Definitions**

As used in OAR 137-140-0010 to 137-140--0070, the following definitions apply:

(1) "Biological evidence" means an individual's blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identified biological material. "Biological evidence" includes the contents of a Sexual Assault Forensic Evidence (SAFE) kit.

(2) "Buccal" and "buccal swab" means the collection of DNA from the cells and saliva contained on the inside of a person's cheek or mouth by means of a sterile cotton swab.

(3) "Chain of custody" means written or electronic continuous chronological documentation of the seizure, custody, control, transfer, analysis, access to, and disposition of biological evidence.

(4) "Convicted" includes a finding of guilty or responsible except for insanity and a finding that a person is within the jurisdiction of the juvenile court under ORS 419C.005.

(5) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order and includes but is not limited to a youth correction facility. "Correctional facility" includes a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.370. "Correctional facility" includes a youth correctional facility as defined in ORS 420.005 and a detention facility as defined in ORS 419A.004.

(6) "Covered offense" means:

(a) Aggravated murder under ORS 163.095;

(b) Murder under ORS 163.115;

(c) Manslaughter in the first degree under ORS 163.118;

(d) Manslaughter in the second degree under ORS 163.125;

(e) Aggravated vehicular homicide under ORS 163.149;

(f) Rape in the first degree under ORS 163.375;

(g) Sodomy in the first degree under ORS 163.405; or

(h) Unlawful sexual penetration in the first degree under ORS 163.411.

(7) "Custodian" means a law enforcement agency as defined in ORS 131.550, or any other person or public body as defined in ORS 174.109, that is charged with the collection, preservation or retrieval of evidence in connection with a criminal investigation or criminal prosecution. "Custodian" does not include a court.

(8) "DNA" means deoxyribonucleic acid.

(9) "Sentence" means a term of incarceration in a correctional or juvenile detention facility, a period of probation, parole or post-prison supervision and the period of time during which a person is under the jurisdiction of the Psychiatric Security Review Board.

(10) "Store" and "Storage" means the time between the initial collection of biological evidence and the expiration of the retention periods for biological evidence under ORS 133.707 and these administrative rules.

(11) "Victim" has the meaning given that term in ORS 131.007.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

**137-140-0030**
**Safety, Contamination Prevention, and Security of Biological Evidence**

(1) Custodian personnel who routinely collect, retain, preserve, and catalogue biological evidence are encouraged to submit a DNA elimination standard to the Oregon State Police Forensic Services Division for DNA profiling in order to be ruled out as a possible source of contamination of a particular item of biological evidence.

(2) Custodians collecting, retaining and preserving biological evidence should follow best scientific practices. Custodians should avoid:

(a) Over-handling biological evidence in order to minimize loss of evidence and exposure to possible contaminants;

(b) Touching the tips of collection swabs with any individual's fingers or other items except the substrate from which a sample is to be taken;

(c) Contaminating collection swabs by getting them dirty, talking over them, sneezing on them, or blowing on them to make samples dry faster;

(d) Touching water droppers or other bottle tips to any surface or biological evidence;

(e) Allowing tape edges of adhesive lift material from contacting any unclean or contaminated surfaces; and

(f) Licking envelope seals.

(3) Security. The security and integrity of collected biological evidence is the responsibility of the custodian and all personnel who may identify, collect, package, store, transport, or examine such evidence. Custodians shall keep all biological evidence in a secure, controlled-access area, protected from loss, damage, or contamination.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

**137-140-0040**
**Documentation Guidelines for Biological Evidence**

(1) When a custodian initiates a criminal investigation, custodian personnel should create a written or electronic file specific for that case in order to contain case documentation of biological evidence for the length of time required by these administrative rules and prevailing law.

(2) Custodians should document the following information regarding biological evidence:

(a) The techniques used for the detection and collection of the evidence;

(b) Date of collection;

(c) Name of persons collecting the evidence;

(d) A descriptive listing of the evidence collected;

(e) A unique identifier of each item of evidence collected such as an item number and case number;

(f) The location where each item of evidence was collected which should be documented by notes, sketches, measurements, photographs, or other similar items; and

(g) Any additional information that the custodian or law enforcement agency deems appropriate.

(3) Custodians shall initiate and maintain a continuous chain of custody for each item of biological evidence from the time of evidence collection until the time the evidence is admitted into court and from a court's return of the evidence to the custodian's custody until the expiration of the retention periods specified in ORS 133.707 and these administrative rules.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

**137-140-0050**
**General Collection and Preservation Guidelines for Biological Evidence**

(1) General collection guidelines.

(a) Custodian personnel responsible for the detection and collection of biological evidence should be aware of applicable laws governing searches, seizures, and search warrants.

(b) Custodians may assign responsibility for biological evidence detection, collection, preservation, retention, and cataloging to appropriate personnel of varying occupations and levels of expertise, for example law enforcement personnel, medical examiners, and medical personnel.

(c) Custodians shall ensure that its personnel are properly trained in biological evidence detection, collection, preservation, retention, and cataloging techniques. Training must include, but not be limited to, record-keeping protocols; crime scene search techniques; rules of evidence handling; safety concerns of biological evidence handling and detection techniques; legal aspects of search warrants, searches, and biological evidence recovery; chain-of-custody documentation and requirements; proper storage techniques for biological evidence; detection, collection, and preservation methods used for biological evidence; and contamination prevention.

(2) General preservation guidelines.

(a) Custodians shall store and preserve biological evidence in the manner set forth in ORS 133.705 to 133.717 and these administrative rules when biological evidence is either:

(A) Collected as part of a criminal investigation of any covered offense; or

(B) In the possession of the custodian and reasonably may be used to incriminate or exculpate any person for any covered offense.

(b) Custodians should, whenever possible, collect and preserve biological evidence from physical evidence in an amount and manner that is sufficient to develop a DNA profile.

(c) When physical evidence is of a size, bulk, or physical characteristic as to make preservation and retention of the entire physical evidence impracticable, custodians shall remove and preserve portions of the physical evidence likely to contain biological evidence in a quantity sufficient to permit future DNA testing. Thereafter, custodians may return or dispose of the physical evidence according to the custodian's policies and practices.

(3) General drying guidelines. In general, moisture can degrade DNA. If possible, custodians should dry wet or moist biological evidence and package it into clean and previously unused paper containers (for example envelopes, bags, cardboard boxes). If custodians cannot air dry evidence, custodians should refrigerate liquid evidence and freeze wet evidence. When drying wet or moist biological evidence, custodians should:

(a) Air dry physical evidence thoroughly;

(b) Place wet or moist evidence in a secure environment or locked room that has ventilation in order to prevent contamination;

(c) Take care not expose physical evidence to excessive heat or sunlight; and

(d) Take steps to prevent cross-contamination.

(4) General packaging guidelines. Appropriate preservation and packaging techniques of biological evidence vary, and custodians should use appropriate clean packaging to prevent loss, degradation or contamination of biological evidence. Custodians should:

(a) Properly seal all evidence packages in a manner to prevent tampering and eliminate loss or contamination of the biological evidence through open edges;

(b) Contact the Oregon State Police Forensic Services Division for questions about appropriate techniques for unique items of biological evidence.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

**137-140-0060**
**Storage and Preservation of Biological Evidence**

(1) Custodians shall use best evidence practices when storing and preserving biological evidence.

(2) Custodians should consider such factors as environmental and ambient conditions when storing biological evidence in order to ensure the isolation, security and integrity of the evidence for future DNA testing through the retention periods specified in ORS 133.717 and these administrative rules. Custodians should contact the Oregon State Police Forensic Services Division for questions about appropriate techniques for storing unique items of biological evidence.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

**137-140-0070**
**Retention Periods for Biological Evidence**

(1) Custodians shall retain biological evidence for any covered offense for the periods specified in ORS 137.707.

(2) Custodians should confirm with the local district attorney whether a person convicted of a covered offense has served the person's sentence.

(3) Custodians shall use the form provided in Appendix A to seek early disposal of biological evidence.

(4) Custodians shall not dispose of biological evidence without a signed order from a court.

Stat. Auth.: ORS 133.709
Stat. Implemented: ORS 133.705-133.717
Hist.: DOJ 9-2015 f. 8-31-15, cert. ef. 9-1-15

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**Rule Caption:** Qualifications of Mediators and Schedule of Fees for an Environmental Claims Mediation Program.
**Adm. Order No.:** DOJ 10-2015
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 9-8-15
**Notice Publication Date:** 1-1-2015
**Rules Adopted:** 137-130-0001, 137-130-0005, 137-130-0010, 137-130-0110, 137-130-0210
**Subject:** NOTE: This is a refiling of the Permanent Rules submitted on 2-23-15. It is being refiled due to a filing error.

SB 814 (2013) establishes an environmental claims mediation program that requires, in certain circumstances, participation in mediation by an insurance company when requested by their insured (policyholder.) These rules do not address environmental claims mediation generally but only the qualifications and training of program mediators and the mediation fees paid by the insured and their insurers. The rules list various combinations of subject matter expertise (i.e. expertise in environmental and insurance issues) and process expertise (i.e. experience and training as a mediator) that a mediator must have to participate in the program. The rules also allow a mediator to serve if agreed to by the parties in a specific case. The rules require the mediator's fees to be published on the Department of Justice website and that the fees will be split among the parties to the mediation.
**Rules Coordinator:** Carol Riches—(503) 378-5987

**137-130-0001**
**Purpose**

These division 130 rules govern the Environmental Claims Mediation Program created by Oregon Laws 2013, chapter 350.

Stat. Auth.: ORS 465.484(2)(e)
Stats. Implemented: ORS 465.484(2), ORS 465.483(3)(b)
Hist.: DOJ 14-2014(Temp), f. & cert. ef. 10-31-14 thru 4-28-15; DOJ 4-2015, f. & cert. ef. 2-23-15; DOJ 10-2015, f. & cert. ef. 9-8-15

**137-130-0005**
**Application**

These division 130 rules apply to any Mediation resulting from a request for Environmental Claim Mediation pursuant to Oregon laws 2013, ch 350.

Stat. Auth.: ORS 465.484(2)(e)
Stats. Implemented: ORS 465.484(2), ORS 465.483(3)(b)
Hist.: DOJ 14-2014(Temp), f. & cert. ef. 10-31-14 thru 4-28-15; DOJ 4-2015, f. & cert. ef. 2-23-15; DOJ 10-2015, f. & cert. ef. 9-8-15

**137-130-0010**
**Definitions**

As used in these division 130 rules:

(1) "Environmental Claims Mediation Program" means the Mediation program established under Oregon Laws 2013, chapter 350.

(2) "Environmental Claims Mediation" means a Mediation conducted pursuant to Oregon Laws 2013 Chapter 350 Section 6.

(3) "Environmental Claims Mediator Roster" means the roster of qualified Mediators established by the Mediation Service Provider pursuant to these rules.

(4) "Mediation" is defined in ORS 36.110(5).

(5) "Mediation Communications" is defined in ORS 36.110(7).

(6) "Mediation Service Provider" ("MSP") means the entity appointed by the Attorney General pursuant to Oregon Laws 2013, chapter 350, section 6.

(7) "Mediation Session" means a meeting involving the mediator, the insured and the insurer.

(8) "Mediator" is defined in ORS 36.110(9).

(9) "Party" is defined in ORS 36.234.

Stat. Auth.: ORS 465.484(2)(e)
Stats. Implemented: ORS 465.484(2), ORS 465.483(3)(b)
Hist.: DOJ 14-2014(Temp), f. & cert. ef. 10-31-14 thru 4-28-15; DOJ 4-2015, f. & cert. ef. 2-23-15; DOJ 10-2015, f. & cert. ef. 9-8-15

**137-130-0110**
**Mediator Qualifications, Training and Experience**

(1) The Mediation Service Provider shall publish, in writing and on its website, an Environmental Claims Mediator Roster composed of those Mediators who meet or exceed the minimum qualifications set forth below, and who have entered into an agreement with the Mediation Service Provider for the provision of Environmental Claims Mediation.

(2) To be included on the Environmental Claim Mediation Roster a mediator must:

(a) Provide the MSP with the mediator's experience and education, including but not limited to:

(A) The number of mediations conducted, approximate number of hours of mediation experience, and approximate number of hours dealing with cases or matters related to environmental matters or insurance claims;

(B) General mediator training;

(C) Specific subject training;

(D) Education level; and

(E) Continuing education.

(b) Provide to the MSP the Mediator's:

(A) Professional standards of mediation practice to which the mediator adheres;

(B) Contact information;

(C) Languages spoken;

(D) Website links, if applicable;

(E) Counties of Oregon where they are willing to serve and the counties they are able to serve without charging travel expenses; and

(F) Fee information.

(c) Certify to the MSP that the Mediator has:

(A) The equivalent of at least 5 (five) years of full-time experience in the environmental or insurance fields in their professional capacity. This professional role may have included, but is not limited to, the role of attorney, insurance or environmental professional, judge, hearing officer or mediator;

(B) Conducted at least 20 Mediations of any type or subject matter and have over 200 hours of experience as a Mediator; or

(C) Conducted 5 (five) mediations involving environmental insurance claims.

(d) Certify to the MSP that the Mediator has participated in or conducted 30 hours of basic mediator training meeting the standards in Section 3.2 of the Oregon Judicial Department Court Connected Mediator Qualification Rules effective August 1, 2005, or a comparable, integrated training;

(e) Certify to the MSP that the Mediator has, within five years prior to the date of application to join the Roster, participated in a total 16 hours of training in the following areas:

(A) Program orientation approved by the MSP; and

(B) Subject-matter training related to environmental matters or insurance claims, including but not limited to:

(i) Environmental cleanup;

(ii) Key cases and substantive law related to environmental insurance claims;

(iii) Court procedures, laws and rules relevant to environmental insurance claims; or

(iv) Role playing exercises involving the negotiated or mediated resolution of environmental insurance claims.

(f) Certify to the MSP that the Mediator will, if included on the Roster, complete 6 (six) hours of continuing education every two years on topics related to environmental matters or insurance claims in a course approved for continuing education by the MSP, a state or national professional accrediting organization or bar association.

(3) A Mediator who meets the minimum qualifications as a Mediator under these rules and is added to the Environmental Claims Mediator Roster may not represent that fact as license or certification of their competency for anything other than their role in the Environmental Claims Mediation Program.

(4) Notwithstanding any other provision of these rules:

(a) If all the parties to an Environmental Claims Mediation agree in writing to the use of a mediator who is not on the Environmental Claims Mediator Roster, and that Mediator enters into an agreement with the MSP as provided in Section (1) of this rule, that Mediator may serve as the Mediator in that specific matter.

(b) A mediator who enters into an agreement under section 4(a) of this rule may be included on the Environmental Claims Mediator Roster upon satisfaction of the requirements of (2)(a), (2)(b), (2)(d) and certification that the Mediator has completed the program orientation referred to in section (2)(e)(A) of this rule.

(5) Notwithstanding any other provision of these rules, if a Mediator is eligible for inclusion on the Environmental Claims Mediator Roster on the basis that they have conducted 5 (five) or more mediations involving environmental insurance claims, the Mediator shall be excused from compliance with the requirements of (2)(d), (2)(e)(B) and (2)(f) above.

(6) Upon becoming aware that a mediator does not meet the requirements of this rule or has performed in a manner inconsistent with the mediator's professional standards identified in section 2(b)(i) of this rule, the MSP shall remove that mediator from the Roster.

Stat. Auth.: ORS 465.484(2)(e)
Stats. Implemented: ORS 465.484(2), ORS 465.483(3)(b)
Hist.: DOJ 14-2014(Temp), f. & cert. ef. 10-31-14 thru 4-28-15; DOJ 4-2015, f. & cert. ef. 2-23-15; DOJ 10-2015, f. & cert. ef. 9-8-15

**137-130-0210**
**Mediation Fees**

(1) The fees for each Mediator on the Environmental Claims Mediator Roster, and any other fees that may be charged to the parties to an Environmental Claims Mediation shall be provided by the Mediation Service Provider to the Department of Justice and published on the Mediation Service Provider's website and at the Department of Justice website at http://www.doj.state.or.us/adr/pages/environmental_claims.aspx.

(2) Unless agreed otherwise by the parties in writing, the Mediation Service Provider shall ensure that the fees and costs of the Mediation are billed equally to the parties to the Mediation.

(3) The Mediation Service Provider shall ensure that the parties are billed for the Mediator's services consistent with the published fee schedule.

(4) The Mediation Service Provider shall provide to the Department of Justice a schedule for any additional fees charged for mediation services that are not included in the Mediator's hourly rate. This fee schedule shall be published on the Mediation Service Provider's website and at the Department of Justice website at http://www.doj.state.or.us/adr/pages/environmental_claims.aspx .

Stat. Auth.: ORS 465.484(2)(e)
Stats. Implemented: ORS 465.484(2), ORS 465.483(3)(b)
Hist.: DOJ 14-2014(Temp), f. & cert. ef. 10-31-14 thru 4-28-15; DOJ 4-2015, f. & cert. ef. 2-23-15; DOJ 10-2015, f. & cert. ef. 9-8-15

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

**Rule Caption:** Gold Star Family Registration Plates
**Adm. Order No.:** DMV 6-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 10-1-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 735-040-0090
**Subject:** DMV issues a veterans' recognition registration plate displaying a gold star decal and the words "Gold Star Family." The plate recognizes families of service members killed in action during an armed conflict while serving in the Armed Forces of the United States and is only available to surviving family members of a service member killed in action.

ORS 805.105, as amended by Chapter 183, Oregon Laws 2015, adds "sibling" to the list of individuals eligible to obtain a Gold Star Family plate. DMV has amended the definition of "surviving family member" under OAR 735-040-0090(3)(b)(D) to include sibling. The amendment also makes non-substantive changes for consistency and corrects a reference to US Department of Defense Form 214.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**735-040-0090**
**Veterans' Recognition Registration Plates for Veterans' Groups; Restrictions on Issuance; Proof of Veteran Status**

(1) Issuance of veterans' recognition registration plates may be restricted to certain persons as provided under Section (2), ORS 805.105(1)(c) and this rule. Conditions for restrictions are as follows:

(a) Restrictions on issuance of a particular veterans' recognition registration plate as requested by a veterans' group must relate to a person's service in the Armed Services of the United States. For example:

(A) DMV may approve a request to restrict issuance of a particular veterans' recognition registration plate to only veterans or to only those awarded a Purple Heart medal; and

(B) DMV will not approve a request to restrict veterans' recognition registration plate issuance to only veterans who are members of a particular group.

(b) A veteran's group requesting a restriction on plate issuance must do so on the initial Application for Approval of Veteran Group Plates. The group must describe the restriction(s) and the basis for the restriction;

(c) All restrictions must be approved by DMV.

(d) If a requested restriction is approved, DMV will consult the group in determining the criteria DMV will use in issuing veterans' recognition registration plates for that group.

(2) Veterans' recognition registration plates may not be issued as custom plates, or in conjunction with any other special registration or plate type.

(3) When a veterans' group approved by DMV or the Director of Veterans' Affairs requires proof of veteran status or proof of receipt of a service-related medal, or the applicant requests "Gold Star Family" registration plates, DMV will accept the following as proof of eligibility:

(a) For plates that include a decal depicting an insignia of a branch of the Armed Services:

(A) For military service 1950 or after, a US Department of Defense Form 214, Certificate of Release or Discharge from Active Duty (DD 214) or Correction to DD 214 Form (DD 215); or

(B) For military service before 1950, a separation document or form issued by a branch or department of the US Armed Services.

(b) For a veterans' group with a service-related restriction approved by DMV under OAR 735-040-0080:

(A) For military service 1950 or after, a DD 214 or DD 215; or

(B) For military service before 1950, a separation document or form issued by a branch or department of the US Armed Services; and

(C) A completed and signed Group Plate Eligibility Certification (DMV Form 735-6940) certifying the applicant is eligible to receive the group's plates.

(c) For plates that include a decal depicting a service-related medal:

(A) For military service 1950 or later, a DD 214 or DD 215; or

(B) For military service before 1950, a separation document or form issued by a branch or department of the US Armed Services; and

(C) A letter, award certificate or other document issued by the US Department of Defense showing the applicant is a recipient of the service-related medal.

(D) For plates displaying a gold star and the words "Gold Star Family," a completed and signed Group Plate Eligibility Certification (DMV Form 735-6940) certifying the applicant is a surviving family member. For purposes of this rule, a surviving family member includes a person who is a parent, sibling as defined under ORS 805.105, as amended by chapter 183, Oregon Laws 2015, spouse, partner in a domestic partnership or dependent of a person killed in action during an armed conflict while serving in the Armed Forces of the United States.

(4) A DD 214, DD 215 or separation form or document required under section (3) of this rule must have been issued under honorable conditions.

Stat. Auth.: ORS 184.616 184.619, 802.010, 805.105 & Ch.183, OL 2015
Stats. Implemented: ORS 805.105 & Ch. 183, OL 2015
Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95; DMV 22-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 14-2008, f. & cert. ef. 6-23-08; DMV 6-2015, f. 8-25-25, cert. ef. 10-1-15

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

**Rule Caption:** Federal safety and hazardous materials transportation regulations affecting motor carriers
**Adm. Order No.:** MCTD 3-2015
**Filed with Sec. of State:** 8-24-2015
**Certified to be Effective:** 8-24-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 740-100-0045, 740-100-0049, 740-100-0055
**Rules Amended:** 740-100-0015, 740-100-0065, 740-100-0070, 740-100-0080, 740-100-0085, 740-100-0090
**Rules Repealed:** 740-100-0110
**Subject:** This rulemaking will allow ODOT to certify that it trains safety inspectors and performs vehicle and driver inspections to the national standard recognized by USDOT as a necessary prelude to creating and using an Oregon decal which gives evidence to inspectors in jurisdictions outside of Oregon that a vehicle bearing such a decal has been inspected and declared defect free in a nationally uniform manner. These rules also implement an Oregon Commercial Vehicle Inspection Decal.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

### 740-100-0015
### Commercial Vehicle Inspector

(1) The Department may certify an individual as a commercial vehicle inspector pursuant to ORS 810.560 if the individual:

(a) Is an employee of the Department and:

(A) Successfully completes a commercial vehicle safety inspector training program administered by the Department; and

(B) Annually performs the minimum number of North American Standard safety inspections as required by U.S. Department Of Transportation (USDOT); or

(b) Is employed by an Executive Branch agency of state government, or is employed by an agency or party under contract with the Department to conduct commercial vehicle inspections and:

(A) Successfully completes a commercial vehicle safety inspector training program administered by the Department;

(B) Annually performs the minimum number of North American Standard safety inspections as required by USDOT; and

(C) Has disclosed to the Department any pecuniary interest in, or current employment relationship with, a regulated motor carrier, and if requested by the Department, has divested of any such pecuniary interest or severed any such employment relationship.

(2) A commercial vehicle inspector certification may be revoked by the Department if Department records or investigation indicates that the inspector:

(a) No longer meets the criteria established in section (1) of this rule;

(b) Has repeatedly failed, without adequate reason, to maintain annual equipment or driver out-of-service rates that are reasonably consistent with, or exceed, Oregon out-of-service averages;

(c) Has failed to adhere to the Commercial Vehicle Safety Plan published by the Department;

(d) Has failed to follow the guidelines regarding the Oregon Commercial Vehicle Inspection decal; or

(e) Has committed malfeasance in the performance of official duties.

(3) A commercial vehicle inspector who has had their certification revoked, may be re-certified only after Department approval.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 810.560, 825.210 & 825.250
Hist.: MCTD 1-2004, f. & cert. ef. 1-15-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 3-2010, f. & cert. ef. 7-30-10; MCTD 3-2015, f. & cert. ef. 8-24-15

### 740-100-0045
### North American Standard Level I and V Commercial Vehicle Inspection Procedures

Inspections must be performed by North American Standard Level I certified inspectors. The term "Level 1 certified inspectors" means the government employee conducting inspections must meet the certification requirements found in Title 49, Code of Federal Regulations, Part 385, Subpart C. Level I and V commercial vehicle inspections must be conducted in accordance with the North American Standard Inspection Procedures and all applicable policies.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 810.560, 825.210 & 825.250
Hist: MCTD 3-2015, f. & cert. ef. 8-24-15

### 740-100-0049
### Oregon Commercial Vehicle Inspection Decal

The North American Standard Level I and V commercial vehicle inspections are the only inspections that may result in issuance of an Oregon Commercial Vehicle Inspection Decal. Level I certified inspectors may apply decals to vehicles in accordance with the procedures contained in the North American Standard Level I and V Inspection Procedures. Decals, when affixed, shall remain valid for a period not to exceed three consecutive months. The issuance, distribution, or display of inspection decals other than by authorized persons is prohibited.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 810.560, 825.210 & 825.250
Hist: MCTD 3-2015, f. & cert. ef. 8-24-15

### 740-100-0055
### Commercial Vehicle Inspection Reciprocity

In general, vehicles displaying a valid Oregon Commercial Vehicle Inspection Decal are not subject to re-inspection. However, if an obvious defect is noticed on a vehicle with a current decal, nothing prevents a party from re-inspecting that vehicle. Maximum reciprocity will be granted to inspections conducted pursuant to the North American Standard Inspection procedures by other jurisdictions.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 810.560, 825.210 & 825.250
Hist: MCTD 3-2015, f. & cert. ef. 8-24-15

### 740-100-0065
### North American Standard Administrative Out-of-Service Criteria

The North American Standard Administrative Out-of-Service Criteria, as recognized by USDOT, in effect April 1, 2015, is adopted and

incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported, or escorted to a safe location only at the direction of an official authority.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 5-2012, f. & cert. ef. 5-18-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15

**740-100-0070**
**North American Standard Vehicle Out-of-Service Criteria**

The North American Standard Vehicle Out-of-Service Criteria, as recognized by USDOT, in effect April 1, 2015, is adopted by and incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to one or more of the following:

(1) Out-of-Service Condition: When any motor vehicle by reason of its mechanical condition or loading, is determined to be so unsafe as to likely cause an accident or breakdown or when such conditions would likely contribute to loss of control of the vehicle by the driver, said vehicle must be placed out-of-service. No motor carrier shall permit or require nor shall any person operate any motor vehicle declared and marked "out-of-service" until all required repairs of violations which resulted in the out-of-service condition have been completed. If, at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted only at the direction of an official authority.

(2) Other: Violations other than out-of-service conditions detected during the inspection process will not preclude the completion of the current trip or dispatch. However, such violations must be corrected or repaired prior to redispatch.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250 & 825.252
Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-372); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0030; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15

**740-100-0080**
**North American Standard Hazardous Material Out-of-Service Criteria**

The North American Standard Hazardous Materials Out-of-Service Criteria, as recognized by USDOT, in effect April 1, 2015, is adopted and incorporated in this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted to a safe location only at the direction of an official authority.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250, 825.258 & 825.260
Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-377); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0035; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15

**740-100-0085**
**North American Standard Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials**

The North American Standard Out-of-Service Criteria Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials, as recognized by USDOT, in effect April 1, 2015, is adopted and incorporated in this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted to a safe location only at the direction of an official authority.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250, 825.258 & 825.260
Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15

**740-100-0090**
**North American Standard Driver Out-of-Service Criteria**

(1) Except for any content that conflicts with requirements of section (2) of this rule, the North American Standard Driver Out-of-Service Criteria, as recognized by USDOT in effect April 1, 2015, is adopted and incorporated by reference. Inspection violations identified in the Out-of-Service Criteria may be subject to one or both of the following:

(a) Out-of-Service Violation: Drivers with violations under this category must not operate a commercial motor vehicle for a specified period of time or for some violations until a required condition is met.

(b) Other: Violations other than out-of-service violations require no immediate action by the driver or motor carrier. The carrier must certify in accordance with the terms contained on the inspection document and return it to the Department of Transportation within 15 days.

(2) Drivers found to be disqualified in this state or any other jurisdiction, as specified in 49 CFR 391.15 will be placed Out-of-Service until requalification is established.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252
Stats. Implemented: ORS 825.250 & 825.252
Hist.: PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0040; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 3-2013, f. & cert. ef. 4-22-13; MCTD 6-2013, f. & cert. ef. 8-26-13; MCTD 1-2014, f. & cert. ef. 4-23-14; MCTD 2-2014, f. & cert. ef. 7-10-14; MCTD 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15

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## Department of Transportation, Rail Division
## Chapter 741

**Rule Caption:** Oregon Railroad Hazardous Materials Transportation Rule Amendments
**Adm. Order No.:** RD 1-2015
**Filed with Sec. of State:** 9-3-2015
**Certified to be Effective:** 9-3-15
**Notice Publication Date:** 4-1-2015
**Rules Adopted:** 741-510-0015, 741-510-0025, 741-510-0027, 741-510-0035, 741-510-0045, 741-510-0050
**Rules Amended:** 741-510-0010, 741-510-0020
**Rules Repealed:** 741-510-0030, 741-510-0040
**Subject:** This rulemaking modernizes ODOT's rules and establishes roles and responsibilities for communications and notifications of hazardous materials rail transport and incident response. Additionally, these rules reestablish consistency with federal laws and rules.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**741-510-0010**
**General Provisions and Definitions**

(1) OAR 741-510-0010 through 741-510-0050 and OAR 741-520-0010 through 741-520-0020, which shall be known as the Oregon Railroad Hazardous Materials Transportation Rules, are adopted under authority of ORS 824.080 through 824.092.

(2) "Emergency Response Agency" means county or local jurisdictions, and tribal, state and federal agencies, with a responsibility to conduct first response or support emergency operations and clean-up.

(3) "Hazard Class" means the category of hazard assigned to a hazardous material under the definitional criteria in 49 CFR Part 173 and as listed in the hazardous material table in 49 CFR 172.101, in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(4) "Hazardous Material" means any hazardous material or hazardous substance defined in Title 49 CFR 171.8, as adopted in OAR 741-510-0015 pursuant to ORS 824.086(1) in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(5) "Incident" means any situation where a release of a Hazardous Material occurs, involving fire, breakage, spillage, or derailment.

(6) "Line Segment" means a length of rail line over which a Hazardous Material is transported between two or more stations within the state that are identified on a current railroad timetable. A Line Segment will terminate at the nearest station where an alternate route exists.

(7) "Rail Division" means the Rail and Public Transit Division of the Oregon Department of Transportation.

(8) "Railroad Emergency Response Telephone Number" means a telephone number that is answered at all times by a person who is able to provide detailed information regarding specific Incidents involving Hazardous Materials on the railroad, or has immediate access to a person who possesses such knowledge and information. A telephone number that requires a call back (such as an answering service, answering machine, or beeper devise) does not meet the requirements of this definition.

(9) "Timetable" means a publication containing instructions relating to the movement of trains or equipment and other essential information for purposes of railroad operations.

(10) "UN or NA Identification Number" means the 4-digit number assigned to the proper shipping name of a Hazardous Material as referenced in 49 CFR 172.101. "UN" numbers are assigned by the United Nations and are preceded by "UN". "NA" (North American) numbers are identical to UN numbers, except that some substances without a UN number may have an NA number. These identification numbers provide a common reference for hazard information and general emergency response procedures for Hazardous Materials in transportation.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: PUC 1-1979, f. & ef. 3-5-79 (Order No. 79-145); PUC 5-1984, f. & ef. 3-6-84 (Order No. 84-164); PUC 6-1985, f. & ef. 6-5-85 (Order No. 85-496); PUC 20-1986, f. & ef. 12-30-86 (Order No. 86-1330); PUC 4-1989, f. & cert. ef. 4-11-89 (Order No. 89-444); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Oder No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0500; RS 3-1996, f. 3-20-96, cert. ef. 4-1-96; RS 1-1997, f. & cert. ef. 6-27-97; RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0015**
**Adoption of Federal Regulations**

The Department of Transportation adopts the rules of the United States Department of Transportation in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015) in Title 49, Code of Federal Regulations, Parts 107 through 180, Hazardous Materials Regulations, insofar as those rules apply to railroads and railroad shippers.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0020**
**Railroad Reporting Information**

There are different entities involved in the transportation of Hazardous Materials by rail and response to any associated Incidents. Information sharing ensures emergency responders have information to guide preparedness efforts and effective response actions.

(1) Each railroad transporting Hazardous Materials in this state shall provide by electronic mail to the Rail Division, the following information for each rail line it operates in the state:

(a) Current railroad Timetable;

(b) The name, address, and telephone number of the railroad's person in charge of education and training related to Hazardous Material transportation;

(c) The Railroad Emergency Response Telephone Number for obtaining information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

(2) Each railroad shall provide updated information required in 741-510-0020(a) through (c) to the Rail Division no later than the last day of the month following the month the change was made.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: PUC 1-1979, f. & ef. 3-5-79 (Order No. 79-145); PUC 5-1984, f. & ef. 3-6-84 (Order No. 84-164); PUC 6-1985, f. & ef. 6-5-85 (Order No. 85-496); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0510; RS 1-1997, f. & cert. ef. 6-27-97; RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0025**
**Quarterly Reporting of Hazardous Material Transportation**

(1) Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall provide a report via electronic mail to the Rail Division, for each quarter in which Hazardous Materials are transported. The quarterly report shall be made by the reporting railroad no later than the last day of the month following the quarter in which transportation of the Hazardous Material shipment ends, or the Hazardous Material shipment leaves the state.

(2) The quarterly report shall segregate the reportable data by month. The quarterly report shall include:

(a) The name, UN or NA Identification Number and Hazard Class of the Hazardous Material transported;

(b) The number of loaded rail cars and residue rail cars used to transport the Hazardous Material, including any intermodal trailers, containers, and tank containers required to be marked with the UN or NA Identification Number of the Hazardous Material;

(c) The railroad Line Segments in the state over which the Hazardous Material was transported.

(3) The Rail Division shall prepare an annual report based on the quarterly reports submitted by each railroad.

(4) The Rail Division shall make the information provided in the quarterly and annual reports available to Emergency Response Agencies.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0027**
**Public Disclosure of Reporting Hazardous Material Transportation**

(1) Pursuant to ORS 824.082 and 824.086, the Rail Division shall make accessible to the general public, information reported quarterly, required by section (1) through (4) of OAR 741-510-0025. Disclosure of the reports will be subject to public records disclosure laws and will require a public records request.

(2) ORS 192.501 and 192.502 provide that certain records (i.e., trade secrets) are exempt from disclosure under 192.410 to 192.050 unless the public interest requires disclosure in a particular instance. Persons required to provide information under these rules may request that the Rail Division treat some or all of their information as exempt from public disclosure by:

(a) Making the claim in writing at the time the required information is provided to the Rail Division, and;

(b) Providing any written documentation or analysis that supports the claim of exemption from public disclosure at the time the required information is provided to the Rail Division.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0035**
**Immediate Access to Train Information for Emergency Response Agencies**

Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall ensure that Emergency Response Agencies responding to an Incident on the transporting railroad's lines have immediate telephonic and/or electronic access to information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0045**
**Notice of Incidents**

Emergency Response Agencies require immediate notification of Incidents to mobilize responders and equipment and initiate alerts to the

impacted public to protect lives, property and the environment, and ensure timely and effective response.

(1) In the event of an Incident that in the judgment of the railroad requires fire, police, or medical response, the railroad shall immediately notify 9-1-1.

(2) Not withstanding any other requirement of Oregon law, each railroad shall notify the Oregon Emergency Response System (OERS) immediately by telephone or similar means of communication of any Incident. Notification to OERS is not a substitute to calling 9-1-1 for an Incident that requires fire, police, or medical response.

(3) Notifications required in (1) and (2) of this section shall be considered immediate if made as soon as possible following the Incident.

(4) The notifications required of an Incident to OERS will at a minimum, include:

(a) Name and phone number of the person making the notification;

(b) Name of the operating railroad reporting the Incident;

(c) Name and phone number of the railroad contact person who is able to provide updated Incident information;

(d) Date and time of the Incident;

(e) Location of the Incident by railroad milepost and nearest city or town;

(f) Type of Incident and nature of Hazardous Material involvement;

(g) Estimated number of Hazardous Material rail cars involved.

(5) Upon request, railroads shall provide the following information to Emergency Response Agencies through the Railroad Emergency Response Telephone Number:

(a) Location of the Incident by latitude/longitude;

(b) Whether a continuing danger to life exists at the scene;

(c) Actions taken, such as containment, shelter-in-place, or evacuation;

(d) The extent of any known injuries;

(e) Hazard Class, proper shipping name, and the quantity of Hazardous Materials involved and released;

(f) The car reporting marks for any rail car involved in the release or suspected release of a Hazardous Material;

(6) OERS will notify appropriate state agencies following their adopted protocols.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15

**741-510-0050**
**Civil Penalties**

(1) Pursuant to ORS 824.990(1) and (2),

(a) Any railroad that fails to submit the information required by OAR 741-510-0020 shall incur a civil penalty of $1000 for each day of non-compliance.

(b) Any railroad that fails to make the quarterly notification required by OAR 741-510-0025 shall incur a civil penalty of $1000 for each day of non-compliance.

(c) Any railroad that fails to provide Emergency Response Agencies with immediate access to Hazardous Material information as required by OAR 741-510-0035 shall incur a civil penalty of $1000 for each incident.

(d) Any railroad that fails to provide the notice of a reportable Incident to Oregon Emergency Response System (OERS) required in OAR 741-510-0045(2) shall incur a civil penalty of $1000 for each unreported incident.

(2) The Oregon Department of Transportation may reduce any penalty provided for in this section on such terms as the department considers proper if the defendant admits the violations alleged in the notice and makes timely request to the department for reduction of the penalty.

(3) Civil penalties imposed under this section shall be imposed in the manner provided in ORS 183.745.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15

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**Rule Caption:** Oregon Railroad Hazardous Materials Transportation Rule Amendments
**Adm. Order No.:** RD 2-2015
**Filed with Sec. of State:** 9-14-2015
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**Notice Publication Date:** 4-1-2015
**Rules Adopted:** 741-510-0015, 741-510-0025, 741-510-0027, 741-510-0035, 741-510-0045, 741-510-0050
**Rules Amended:** 741-510-0010, 741-510-0020
**Rules Repealed:** 741-510-0030, 741-510-0040
**Subject:** This rulemaking modernizes ODOT's rules and establishes roles and responsibilities for communications and notifications of hazardous materials rail transport and incident response. Additionally, these rules reestablish consistency with federal laws and rules.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**741-510-0010**
**General Provisions and Definitions**

(1) OAR 741-510-0010 through 741-510-0050 and 741-520-0010 through 741-520-0020, which shall be known as the Oregon Railroad Hazardous Materials Transportation Rules, are adopted under authority of ORS 824.080 through 824.092.

(2) "Emergency Response Agency" means county or local jurisdictions, and tribal, state and federal agencies, with a responsibility to conduct first response or support emergency operations and clean-up.

(3) "Hazard Class" means the category of hazard assigned to a hazardous material under the definitional criteria in 49 CFR Part 173 and as listed in the hazardous material table in 49 CFR 172.101, in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(4) "Hazardous Material" means any hazardous material or hazardous substance defined in Title 49 CFR 171.8, as adopted in OAR 741-510-0015 pursuant to ORS 824.086(1) in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(5) "Incident" means any situation where a release of a Hazardous Material occurs, involving fire, breakage, spillage, or derailment.

(6) "Line Segment" means a length of rail line over which a Hazardous Material is transported between two or more stations within the state that are identified on a current railroad timetable. A Line Segment will terminate at the nearest station where an alternate route exists.

(7) "Rail Division" means the Rail and Public Transit Division of the Oregon Department of Transportation.

(8) "Railroad Emergency Response Telephone Number" means a telephone number that is answered at all times by a person who is able to provide detailed information regarding specific Incidents involving Hazardous Materials on the railroad, or has immediate access to a person who possesses such knowledge and information. A telephone number that requires a call back (such as an answering service, answering machine, or beeper devise) does not meet the requirements of this definition.

(9) "Timetable" means a publication containing instructions relating to the movement of trains or equipment and other essential information for purposes of railroad operations.

(10) "UN or NA Identification Number" means the 4-digit number assigned to the proper shipping name of a Hazardous Material as referenced in 49 CFR 172.101. "UN" numbers are assigned by the United Nations and are preceded by "UN". "NA" (North American) numbers are identical to UN numbers, except that some substances without a UN number may have an NA number. These identification numbers provide a common reference for hazard information and general emergency response procedures for Hazardous Materials in transportation.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: PUC 1-1979, f. & ef. 3-5-79 (Order No. 79-145); PUC 5-1984, f. & ef. 3-6-84 (Order No. 84-164); PUC 6-1985, f. & ef. 6-5-85 (Order No. 85-496); PUC 20-1986, f. & ef. 12-30-86 (Order No. 86-1330); PUC 4-1989, f. & cert. ef. 4-11-89 (Order No. 89-444); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Oder No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0500; RS 3-1996, f. 3-20-96, cert. ef. 4-1-96; RS 1-1997, f. & cert. ef. 6-27-97; RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0015**
**Adoption of Federal Regulations**

The Department of Transportation adopts the rules of the United States Department of Transportation in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015) in Title 49, Code of Federal Regulations, Parts 107 through 180, Hazardous Materials Regulations, insofar as those rules apply to railroads and railroad shippers.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0020**
**Railroad Reporting Information**

There are different entities involved in the transportation of Hazardous Materials by rail and response to any associated Incidents.

Information sharing ensures emergency responders have information to guide preparedness efforts and effective response actions.

(1) Each railroad transporting Hazardous Materials in this state shall provide by electronic mail to the Rail Division, the following information for each rail line it operates in the state:

(a) Current railroad Timetable;

(b) The name, address, and telephone number of the railroad's person in charge of education and training related to Hazardous Material transportation;

(c) The Railroad Emergency Response Telephone Number for obtaining information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

(2) Each railroad shall provide updated information required in 741-510-0020(a) through (c) to the Rail Division no later than the last day of the month following the month the change was made.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: PUC 1-1979, f. & ef. 3-5-79 (Order No. 79-145); PUC 5-1984, f. & ef. 3-6-84 (Order No. 84-164); PUC 6-1985, f. & ef. 6-5-85 (Order No. 85-496); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0510; RS 1-1997, f. & cert. ef. 6-27-97; RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0025**
**Quarterly Reporting of Hazardous Material Transportation**

(1) Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall provide a report via electronic mail to the Rail Division, for each quarter in which Hazardous Materials are transported. The quarterly report shall be made by the reporting railroad no later than the last day of the month following the quarter in which transportation of the Hazardous Material shipment ends, or the Hazardous Material shipment leaves the state.

(2) The quarterly report shall segregate the reportable data by month. The quarterly report shall include:

(a) The name, UN or NA Identification Number and Hazard Class of the Hazardous Material transported;

(b) The number of loaded rail cars and residue rail cars used to transport the Hazardous Material, including any intermodal trailers, containers, and tank containers required to be marked with the UN or NA Identification Number of the Hazardous Material;

(c) The railroad Line Segments in the state over which the Hazardous Material was transported.

(3) The Rail Division shall prepare an annual report based on the quarterly reports submitted by each railroad.

(4) The Rail Division shall make the information provided in the quarterly and annual reports available to Emergency Response Agencies.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0027**
**Public Disclosure of Reporting Hazardous Material Transportation**

(1) Pursuant to ORS 824.082 and 824.086, the Rail Division shall make accessible to the general public, information reported quarterly, required by section (1) through (4) of OAR 741-510-0025. Disclosure of the reports will be subject to public records disclosure laws and will require a public records request.

(2) ORS 192.501 and 192.502 provide that certain records (i.e., trade secrets) are exempt from disclosure under 192.410 to 192.050 unless the public interest requires disclosure in a particular instance. Persons required to provide information under these rules may request that the Rail Division treat some or all of their information as exempt from public disclosure by:

(a) Making the claim in writing at the time the required information is provided to the Rail Division, and;

(b) Providing any written documentation or analysis that supports the claim of exemption from public disclosure at the time the required information is provided to the Rail Division.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0035**
**Immediate Access to Train Information for Emergency Response Agencies**

Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall ensure that Emergency Response Agencies responding to an Incident on the transporting railroad's lines have immediate telephonic and/or electronic access to information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0045**
**Notice of Incidents**

Emergency Response Agencies require immediate notification of Incidents to mobilize responders and equipment and initiate alerts to the impacted public to protect lives, property and the environment, and ensure timely and effective response.

(1) In the event of an Incident that in the judgment of the railroad requires fire, police, or medical response, the railroad shall immediately notify 9-1-1.

(2) Not withstanding any other requirement of Oregon law, each railroad shall notify the Oregon Emergency Response System (OERS) immediately by telephone or similar means of communication of any Incident. Notification to OERS is not a substitute to calling 9-1-1 for an Incident that requires fire, police, or medical response.

(3) Notifications required in (1) and (2) of this section shall be considered immediate if made as soon as possible following the Incident.

(4) The notifications required of an Incident to OERS will at a minimum, include:

(a) Name and phone number of the person making the notification;

(b) Name of the operating railroad reporting the Incident;

(c) Name and phone number of the railroad contact person who is able to provide updated Incident information;

(d) Date and time of the Incident;

(e) Location of the Incident by railroad milepost and nearest city or town;

(f) Type of Incident and nature of Hazardous Material involvement;

(g) Estimated number of Hazardous Material rail cars involved.

(5) Upon request, railroads shall provide the following information to Emergency Response Agencies through the Railroad Emergency Response Telephone Number:

(a) Location of the Incident by latitude/longitude;

(b) Whether a continuing danger to life exists at the scene;

(c) Actions taken, such as containment, shelter-in-place, or evacuation;

(d) The extent of any known injuries;

(e) Hazard Class, proper shipping name, and the quantity of Hazardous Materials involved and released;

(f) The car reporting marks for any rail car involved in the release or suspected release of a Hazardous Material;

(6) OERS will notify appropriate state agencies following their adopted protocols.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

**741-510-0050**
**Civil Penalties**

(1) Pursuant to ORS 824.990(1) and (2),

(a) Any railroad that fails to submit the information required by OAR 741-510-0020 shall incur a civil penalty of $1000 for each day of non-compliance.

(b) Any railroad that fails to make the quarterly notification required by OAR 741-510-0025 shall incur a civil penalty of $1000 for each day of non-compliance.

(c) Any railroad that fails to provide Emergency Response Agencies with immediate access to Hazardous Material information as required by OAR 741-510-0035 shall incur a civil penalty of $1000 for each incident.

(d) Any railroad that fails to provide the notice of a reportable Incident to Oregon Emergency Response System (OERS) required in OAR 741-510-0045(2) shall incur a civil penalty of $1000 for each unreported incident.

(2) The Oregon Department of Transportation may reduce any penalty provided for in this section on such terms as the department considers proper if the defendant admits the violations alleged in the notice and makes timely request to the department for reduction of the penalty.

(3) Civil penalties imposed under this section shall be imposed in the manner provided in ORS 183.745.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
Stats. Implemented: ORS 824.080 - 824.092
Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

## Department of Veterans' Affairs
## Chapter 274

**Rule Caption:** Veterans home loan down payment assistance program
**Adm. Order No.:** DVA 2-2015(Temp)
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15 thru 2-12-16
**Notice Publication Date:**
**Rules Adopted:** 274-025-0035
**Subject:** The down payment assistance program is for veterans who are first time homebuyers and in need of down payment assistance to purchase a home. The program is a grant program for veterans that is provided by the Oregon Department of Veterans' Affairs (Department) and funded from document recording fees administered by Oregon Housing and Community Services (OHCS) under ORS 408.655; therefore, the program is dependent on the availability of funds. In addition to all other ODVA eligibility and underwriting requirements for a home loan there are additional requirements for the veteran and for the loan that are set out in this new rule with a new rule number.
**Rules Coordinator:** Laurie Skillman—(503) 373-2016

**274-025-0035**
**Down Payment Assistance Program**

(1) For purposes of this rule, "first-time homebuyer" means an individual who

(a) Is purchasing the security property;

(b) Will reside in the property as a principal residence; and

(c) Had no ownership interest (sole or joint) in a residential property during the three-year period preceding the date of the purchase of the security property.

(2) The down payment assistance program is for veterans who are considered first-time homebuyers and in need of down payment assistance to purchase a home.

(3) The program is a grant program for veterans provided by the Oregon Department of Veterans' Affairs (ODVA) and funded from document recording fees administered by Oregon Housing and Community Services (OHCS) under ORS 408.655; therefore, the program is dependent on the availability of funds.

(4) In addition to all other ODVA eligibility and underwriting requirements for a home loan, including the provisions under this Division 25 or under Division 20, a veteran applicant and any co-applicant for a home loan and a down payment assistance grant must meet the following requirements:

(a) The veteran applicant and any co-applicant must be a first-time home buyer; and

(b) Provide the following documents at the time of application for veteran applicant and any co-applicant:

(A) The most recent three years of Federal income tax returns; and

(B) A certificate of completion for a homebuyer's education class from a counseling agency that has been approved by a U.S. Department of Housing and Urban Development (HUD).

(5) The total household income for the veteran and any co-applicant may not exceed 80% of the HUD-defined "area median income" of the metropolitan statistical area or the county of the proposed residence.

(7) The total of the down payment assistance grant and the closing costs may not exceed $15,000.

(8) The total of all verified liquid assets of the veteran applicant and any co-applicant may not exceed five months of the reserves for PITIMI (principal, interest, taxes, insurance and mortgage insurance) or 5% of the sale price, whichever is higher. Retirement funds, including 401k plans and IRAs, are excluded from the calculation of verified liquid assets.

(9) A veteran applicant and any co-applicant may use funds from gifts to supplement the down payment assistance grant and closing costs. These gift funds may exceed the $15,000 limitation in subsection (5) of this rule.

(10) In addition to the limitations stated in this rule, the availability of down payment assistance program grants is subject to the sole discretion of the Director in consideration of other factors including, but not limited to, the solvency and the financial position of the home loan program, the condition of the tax exempt bond market, and the effect on other borrowers in the program.

Stat. Auth.: ORS 407.115
Stats. Implemented:
Hist.: DVA 2-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

## Higher Education Coordinating Commission
## Chapter 715

**Rule Caption:** Allotment of ETIC Sustaining Funds
**Adm. Order No.:** HECC 8-2015(Temp)
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 9-8-15 thru 3-5-16
**Notice Publication Date:**
**Rules Adopted:** 715-013-0062
**Subject:** This rule is intended to allow for allotment of ETIC Sustaining Funds during the 2015–17 biennium. It represents an agreed-upon split of funds between all seven public universities and OHSU.
**Rules Coordinator:** Kelly Dickinson—(503) 947-2379

**715-013-0062**
**Engineering Technology Sustaining Funds**

(1) Definitions

(a) "Engineering and Technology Industry Council" or "ETIC" was the body established by ORS 351.663 and abolished by Section 5, Chapter 682 Oregon Laws 2015, for the purposes of improving engineering education in the state of Oregon.

(b) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(c) "Historical Funding" is funding based upon a university's historical allocation of ETIC Sustaining Funds in fiscal year 2015 as approved by the Oregon Education Investment Board (OEIB).

(d) "Oregon Education Investment Board (OEIB)" was the body established by section 1, chapter 519, Oregon Laws 2011 and appointed by the Governor.

(e) "Oregon Health and Science University (OHSU)" is an independent public corporation established by ORS 353.020.

(f) "Oregon Students, Oregon Jobs Model" is defined as the model that had been developed by ETIC and submitted to the HECC to award funds based on placement of Oregon resident graduates in Oregon jobs.

(g) A "Public University" is any institution as defined in ORS 352.002, including; Eastern Oregon University (EOU), Oregon Institute of Technology (OIT), Oregon State University (OSU), Portland State University (PSU), Southern Oregon University (SOU), University of Oregon (UO) and Western Oregon University (WOU).

(h) "Sustaining Funds" are funds designated by the Legislature as legacy ETIC Sustaining Funds.

(2) This rule allocates Sustaining Funds to Public Universities and OHSU for the 2015-17 biennium.

(3) Allocations in the first year of any biennium shall be 49% of total appropriated for the biennium. The remainder shall be allocated in the second year of the biennium.

(4) Sustaining Funds are to be spent in support of engineering and technology related programs in support of Oregon industry.

(5) Allocations shall be made by the HECC to Public Universities and OHSU for the fiscal year beginning on July 1, 2015 as follows;

(a) 80% of available funds shall be allocated on the basis of Historical Funding. Of these funds, the allocations shall be as follows;

(A) Eastern Oregon University shall receive $144,601.

(B) Oregon Health Sciences University shall receive no historical funding.

(C) Oregon Institute of Technology shall receive $444,592.

(D) Oregon State University shall $6,179,323.

(E) Portland State University shall receive $2,410,166.

(F) Southern Oregon University shall receive $168,447.

(G) The University of Oregon shall receive no historical funding.

(H) Western Oregon University shall receive $237,770.

(b) 20% of available funds shall be allocated in the proportions indicated by the Oregon Students, Oregon Jobs Model. Of these funds, the allocations shall be as follows;

(A) Eastern Oregon University shall receive $10,814.

(B) Oregon Health Sciences University shall receive no funds.

(C) Oregon Institute of Technology shall receive $513,415.

(D) Oregon State University shall receive $862,072.

(E) Portland State University shall receive $771,841.

(F) Southern Oregon University shall receive $67,688.

(G) The University of Oregon shall receive $107,892.

(H) Western Oregon University shall receive $62,503.

(6) Allocations shall be made by the HECC to public universities and OHSU for the fiscal year beginning July 1, 2016 as follows;

(a) Funding to each public university shall continue in amounts equal to those in section 5.

(b) The additional funds available shall be allocated to institutions which have not reached funding indicated in the Oregon Student, Oregon Jobs Model. Of these funds, the allocations shall be as follows:

(A) Eastern Oregon University shall receive no funds.

(B) Oregon Health Sciences University shall receive no funds.

(C) Oregon Institute of Technology shall receive $287,431.

(D) Oregon State University shall receive no funds.

(E) Portland State University shall receive $105,785.

(F) Southern Oregon University shall receive $17,318.

(G) The University of Oregon shall receive $77,906.

(H) Western Oregon University shall receive $586.

(7) The continued allocation of Historical Funding is contingent upon institutions maintaining performance consistent with past efforts.

(8) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Stat. Auth.: ORS 351.735(5)
Stats. Implemented: ORS 351.735(3)(iiI)(f), 2015 OL Ch 682
Hist.: HECC 8-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16

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**Rule Caption:** Allotment of Dispute Resolution Center Funds
**Adm. Order No.:** HECC 9-2015(Temp)
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 9-8-15 thru 3-5-16
**Notice Publication Date:**
**Rules Adopted:** 715-013-0066
**Subject:** This rule is intended to allow for allotment of Dispute Resolution Center Funds during the 2015–17 biennium. The split between institutions remains identical to that under OUS.
**Rules Coordinator:** Kelly Dickinson—(503) 947-2379

**715-013-0066**
**Dispute Resolution Center Funds**

(1) Definitions

(a) "Dispute Resolution Account" is an account established in the state treasury by ORS 36.145 to appropriate funds for the purposes outlined in ORS 36.135, 36.175 and 36.179 to the University of Oregon and Portland State University.

(b) "Dispute Resolution Programs" are programs authorized by ORS 36.100, 36.135, 36.155 and 36.179 for the purposes indicated in ORS 36.105. Dispute Resolution Program funds are designated by the legislature.

(c) "Dispute Resolution Services in Counties" are established under standards adopted by the Board of Trustees of the University of Oregon pursuant to ORS 36.155.

(d) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(e) "Mediation and Alternative Means of Dispute Resolution" is the program authorized by ORS 36.179 providing mediation and other alternative dispute resolution services to public bodies at the Mark O Hatfield School of Government at Portland State University.

(f) A "Public University" is any institution as defined in ORS 352.002, including; Eastern Oregon University (EOU), Oregon Institute of Technology (OIT), Oregon State University (OSU), Portland State University (PSU), Southern Oregon University (SOU), University of Oregon (UO) and Western Oregon University (WOU).

(2) This rule allocates Dispute Resolution Program funds to Public Universities.

(3) Allocations in the first year of any biennium shall be 49% of the total appropriated to Dispute Resolution Programs. The remainder shall be allocated in the second year of the biennium.

(4) Dispute Resolution Program funds for the University of Oregon are to be spent in compliance with standards adopted pursuant to ORS 36.155 and in compliance with state policy pursuant to ORS 36.100 and 36.105.

(5) Dispute Resolution Program funds for Portland State University are to operate the program authorized in ORS 36.179 and in compliance with state policy pursuant to ORS 36.100 and 36.105.

(6) The University of Oregon shall receive 65% of Dispute Resolution Program funds each biennium and Portland State University shall receive 35% of Dispute Resolution Program funds.

(7) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Stat. Auth.: ORS 351.735(5), 36.100, 36.135, 36.145, 36.155, 36.179
Stats. Implemented: ORS 351.735(3)(iii)(f), 36.105, 36.145
Hist.: HECC 9-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16

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**Rule Caption:** Allotment of Signature Research Center Funds
**Adm. Order No.:** HECC 10-2015(Temp)
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 9-8-15 thru 3-5-16
**Notice Publication Date:**
**Rules Adopted:** 715-013-0064
**Subject:** This rule is intended to allow for allotment of Signature Research Center Funds during the 2015–17 biennium. The split between institutions remains identical to that under OUS.
**Rules Coordinator:** Kelly Dickinson—(503) 947-2379

**715-013-0064**
**Signature Research Center Funds**

(1) Definitions:

(a) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(b) "Oregon Growth Business' is defined in ORS 284.701(3) as an individual, group of individuals or private sector business entity, including but not limited to a partnership, limited liability company, corporation, firm, association or other business entity, that engages in business that furthers innovation-based economic development, that has the capacity, upon obtaining appropriate capital, to generate significant high-skill, high-wage employment in Oregon and that conducts business in Oregon or an emerging growth business consisting of an individual or group of individuals or a new or small company, including but not limited to any new or small partnership, limited liability company, corporation, firm, association or other business entity, that has the capacity, upon obtaining appropriate capital, to generate significant high-skill, high-wage employment.

(c) "Public Entity" is defined in ORS 284.701(4) as any agency of the federal or state government, county, city, town, public corporation or political subdivision in this state.

(d) A "Public University" is any institution as defined in ORS 352.002, including; Eastern Oregon University (EOU), Oregon Institute of Technology (OIT), Oregon State University (OSU), Portland State University (PSU), Southern Oregon University (SOU), University of Oregon (UO) and Western Oregon University (WOU).

(e) "Research Institution" is defined in ORS 284.701(5) to include Community Colleges, Public Universities, Oregon Health and Science University, Oregon-based generally accredited non-for-profit private institutions of higher education, federal research laboratories conducting research in Oregon, private not-profit research institutions located in Oregon, institutions for higher education as defined in ORS 289.005 or private institutions of higher education located in Oregon.

(f) "Signature Research Centers" are those authorized under ORS 284.740 to maximize collaborative ventures between Research Institutions, Public Entities and Oregon Growth Industries. Signature Research Center funds are designated by the Legislature.

(2) This rule allocates Signature Research Center funds to Public Universities.

(3) Allocations in the first year of any biennium shall be 49% of the total appropriated. The remainder shall be allocated in the second year of the biennium.

(4) Signature Research Center funds are to be spent on expenses related to collaborative ventures among Research Institutions, Public Entities and Oregon Growth Businesses that seek to capitalize on opportunities to obtain private and federal funding for the research and development of innovation-based economic development.

(5) The University of Oregon and Oregon State University shall each receive 47.5% of all appropriated funds each biennium and Portland State University shall receive 5% of all appropriated funds.

(6) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Stat. Auth.: ORS 351.735(5),
Stats. Implemented: ORS 351.735(3)(iii)(f), 284.720, 284.701
Hist.: HECC 10-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16

**Rule Caption:** Allotment of Clinical Legal Education Funds
**Adm. Order No.:** HECC 11-2015(Temp)
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 9-8-15 thru 3-5-16
**Notice Publication Date:**
**Rules Adopted:** 715-013-0060
**Subject:** This rule is intended to allow for allocation of clinical legal education funds to eligible institutions. It continues the status quo that had been in place as OUS Policy #54.200.
**Rules Coordinator:** Kelly Dickinson—(503) 947-2379

**715-013-0060**
**Clinical Legal Education Funds**

(1) Definitions:

(a) "ABA-Approved Law School" is a law school approved by the American Bar Association (ABA) to confer Juris Doctor (JD) Degrees.

(b) "Accredited Institution of Higher Education" is an institution of higher education that is accredited by an accrediting institution authorized by the US Department of Education.

(c) "Civil Legal Services" are services provided to individuals for non-criminal civil matters and operated in concert with regulations adopted by the Oregon State Bar pursuant to ORS 9.572.

(d) "Clinical Legal Education Program" is the program authorized by ORS 21.007 and provided by an ABA-Approved Law School at and Accredited Institution of Higher Education granting law students an opportunity to practice law in a particular area during their legal education. Clinical Legal Education Program funds are designated by the legislature on a biennial basis.

(e) "Eligible Accredited Institution of Higher Education" is an Accredited Institution of Higher Education for which the HECC has certified its compliance with Section 5 of this OAR to receive Civil Legal Education Program funds.

(f) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(g) "Oregon State Bar" is a public corporation established by ORS 9.010 to license and discipline lawyers, regulate the practice of law, and provide a variety of services to bar members and the public.

(2) This rule allocates Civil Legal Education Program funds to Eligible Accredited Institutions of Higher Education.

(3) Allocations in the first year of any biennium shall be 49% of the total appropriated to the Domestic Violence Clinical Legal Education Account. The remainder shall be allocated in the second year of the biennium.

(4) Civil Legal Education Program funds are distributed in order to provide civil legal services to victims of stalking, domestic violence and assault.

(5) In order to be eligible for funding under this program, institutions must meet the following conditions;

(a) Be an accredited institution of higher education and have an ABA-approved law school.

(b) Certify that the institution has a clinical legal education program that includes Civil Legal Services.

(c) Certify that the Clinical Legal Education Program represents clients of domestic violence, stalking or sexual assault.

(d) Certify that the Clinical Legal Education Program operates in concert with at least one nonprofit service provider that provides advocacy services such as counseling, safety-planning and/or shelter to victims of domestic violence, stalking or sexual assault and that this provider performs victims counseling services and provides student training.

(6) Once an institution certifies to the HECC their compliance with Section 5 they need not apply every year but must recertify their eligibility on an annual basis.

(7) All institutions certified as eligible and seeking funds shall submit an annual report including the following:

(a) Number of clients that are victims of domestic violence, stalking or sexual assault.

(b) Nature of legal issues involved.

(c) Outcomes of the legal issues.

(d) Categorization of victim service between, sexual assault, stalking and domestic violence.

(e) Relationship of the client to the offender.

(f) Whether advocacy services were provided.

(8) The HECC shall award funds to institutions on a proportional basis in relation to the number of victims served.

(a) Proportions shall be calculated on an annual basis.

(b) If only one institution is eligible to receive funds in a given fiscal year, it shall receive all available funds in a given fiscal year.

(9) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Statutory Authority: ORS 351.735(5),
Statutes Implemented: ORS 351.735(3)(iii)(f), 21.007
Hist.: HECC 11-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16

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## Higher Education Coordinating Commission, Office of Degree Authorization
## Chapter 583

**Rule Caption:** Update rules to reflect 2015 legislation that amended duties and responsibilities.
**Adm. Order No.:** ODA 2-2015(Temp)
**Filed with Sec. of State:** 9-10-2015
**Certified to be Effective:** 9-10-15 thru 3-7-16
**Notice Publication Date:**
**Rules Adopted:** 583-030-0051, 583-030-0052, 583-030-0053, 583-030-0054, 583-030-0056
**Rules Amended:** 583-001-0000, 583-001-0005, 583-001-0015, 583-030-0005, 583-030-0009, 583-030-0010, 583-030-0015, 583-030-0016, 583-030-0020, 583-030-0025, 583-030-0030, 583-030-0032, 583-030-0035, 583-030-0036, 583-030-0041, 583-030-0042, 583-030-0043, 583-030-0045, 583-030-0046, 583-030-0049, 583-050-0006, 583-050-0011, 583-050-0014, 583-050-0016, 583-050-0027, 583-050-0028, 583-050-0036, 583-050-0040
**Rules Suspended:** 583-030-0011
**Subject:** The Commission is amending OAR 581-001-0000, 583-001-0005, 583-001-0015, 583-030-0016, 583-030-0020, 583-030-0025, 583-030-0030, 583-030-0032, 583-030-0035, 583-030-0036, 583-030-0046, 583-030-0049, 583-050-0006, 583-050-0011, 583-050-0014, 583-050-0016, 583-050-0026, 583-050-0027, 583-050-0028, 583-050-0036, 583-050-0040 for purposes of general clean-up and clarifying rule language.

The Commission is amending OAR 583-030-0005, 583-030-0009 and 583-030-0010 in order to repeal references to the exclusionary rule per passage of Senate Bill 218 (2015 Oregon Legislative Assembly) which deleted this allowance. OAR 583-030-0015 is being amended to reflect the change in definitions after the repeal of the exclusionary rule and request for exemption. The Commission is amending 583-030-0015 to include the definition of probation per passage of House Bill 3516 (2015 Oregon Legislative Assembly).

The Commission is proposing to repeal OAR 583-030-0011 to reflect changes in federal guidelines referencing state authorization, 34 Code of Federal Regulations (CFR) 600.9. Suspending OAR 583-030-0011 will also reflect changes in House Bill 2870.

The Commission is amending 583-030-0035 for clean-up and clarifying language. This rule defines monetary compensation when referencing how teachers and administrators are paid at ODA schools. The rule is further amended to define the extent to which schools can contract with third party entities. The requirements of the school catalog are amended to included average total student loan debt students leave the school with. The Commission is amending 583-030-0035(12) to require schools submit a fact sheet for review by the Commission staff and to be available for students.

The Commission is proposing to amend 583-030-0042 for purposes of defining annual reporting in rule and what factors the Commission will request from schools on an on annual basis.

The Commission is proposing to amend 583-030-0043 and 583-030-0045 for purposes of addressing schools placed at risk, or on probation, suspension status and the requirements placed on them. The rule further identifies the Commission's authority to extend the probation, suspension or revocation.

The Commission is proposing to adopt 583-030-0056, 583-030-0051, 583-030-0052, 583-030-0053 and 583-030-0054 to produce administrative procedures in order to reflect House Bill 3516 (2015 Oregon Legislative Assembly) which amended ORS 348.606 to require surety bonds and letters of credit. HB 3516 also requires the

Commission to define "probation" and outline regulatory steps for schools under probation.

The Commission is proposing to amend 583-050-0026 to clarify the Commission's authority over invalid degrees and issuing cease and desist letters for degree users. It also clarifies the Commission's authority to issue penalties and the administrative hearings.

**Rules Coordinator:** Kelly Dickinson—(503) 947-2379

**583-001-0000**
**Notice of Proposed Rule**

Effective January 13, 2015:

(1) Before permanently adopting, amending, or repealing any permanent rule, the Higher Education Coordinating Commission (Commission) shall give notice of the proposed adoption, amendment, or repeal:

(a) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the effective date of the rule;

(b) By mailing or emailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the Commission's mailing and emailing lists established pursuant to ORS 183.335(8);

(c) By mailing or emailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and,

(d) By mailing or emailing a copy of the notice to persons, organizations, and publications identified by the Commission and established educational, student, and parent organizations that have submitted mailing or emailing addresses to the Commission.

(2) Persons who wish to receive written or emailed copies of notices of proposed rulemaking from the Commission may write or email the Commission and request that they be placed on the Commission's mailing or emailing lists.

(3) The Commission may update the mailing and emailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the Commission's mailing and emailing lists. Any person removed from the mailing or emailing lists will be returned to the mailing or emailing list upon request, provided that the person provides a mailing address or emailing address to which notice may be sent.

Stat. Auth.: ORS 183.335, 183.341(4), 348.606, & 351.728
Stats. Implemented: ORS 183.335
Hist: ECC 21, f. & ef. 11-28-75; ECC 1-1984, f. & ef. 11-28-84; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-001-0005**
**Model Rules of Procedure**

Effective January 13, 2015. Pursuant to the provisions of ORS 183.341, the Commission adopts the Attorney General's Model and Uniform Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Office of Degree Authorization.]
Stat. Auth.: ORS 183 & 348
Stats. Implemented: ORS 183.341
Hist: ECC 22, f. & ef. 1-13-76; ECC 4-1978, f. & ef. 4-12-78; ECC 1-1980, f. & ef. 2-19-80; ECC 2-1981, f. & ef. 12-16-81; ECC 2-1983, f. & ef. 11-7-83; ECC 1-1986, f. & ef. 9-20-86; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-001-0015**
**Establishing Fees for Public Record**

Effective January 13, 2015. A fee may be imposed on any school or person requesting services or information from the Commission pertaining to the administration of its functions under ORS 348.594 to 348.615. The amount of the fee shall be established by the manager to whom the commission has delegated the responsibility to manage the commission's functions under ORS 348.594 to 348.615. The amount of the fee shall be sufficient to recover designated expenses incurred by the commission in carrying out the administration of ORS 348.594 to 348.615. Any fees collected by the commission, for services that are the responsibility of the manager, shall be deposited in the Degree Authorization Account established under ORS 348.601 and used exclusively for purposes directly related to the duties and functions of the commission under the authority of the manager as delegated by the commission.

Stat. Auth.: ORS 348.603
Stats. Implemented: ORS 348.603
Hist.: ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0005**
**Purpose and Scope**

Effective September 10, 2015:

(1) These rules implement ORS 348.594 to 348.615 and 348.992 insofar as each section therein relates to ORS 348.606, which provides that a school must meet state standards and be approved by the Higher Education Coordinating Commission (Commission) before it may confer or offer to confer any academic degree, or provide services purporting to lead to a degree, by establishing the standards and the procedures to implement the standards or to verify any exemption or exclusion.

(2) These rules apply to any school offering degrees and credits from within Oregon to recipients anywhere. The rules further apply to any school offering degrees and credits from outside of Oregon, in connection with learning or evaluation meant to occur within this state. These rules further apply to anyone affiliated with a school in the following ways:

(a) Maintaining an office or mailing address in the state; or

(b) Conducting any part of the instruction program or support activities from or in the state.

(3) Exclusions to the rule are described in OAR 583-030-0009.

(4) Complete and partial exemptions and modifications are described in OAR 583-030-0010 and 583-030-0011.

Stat. Auth.: ORS 348.594 & 348.606
Stats. Implemented: ORS 348.594, 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998 f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0009**
**Exclusions**

Effective September 10, 2015. These rules do not apply to: Postsecondary schools that do not offer degrees or credits viable toward a degree, absent an articulation agreement with an authorized school, but do confer certificates and diplomas in instructional programs for the purpose of instructing, training, or preparing students for any profession. Such schools are subject to ORS chapter 345.

Stat. Auth.: ORS 348.594 - 348.615, 2005 SB 1039 (2005 Laws 546)
Stats. Implemented: ORS 348.594 - 348.615
Hist.: ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0010**
**Exemptions**

Effective September 10, 2015:

(1) The standards and procedures in these rules shall not apply to an Oregon public institution that is authorized and governed by the Commission under ORS Chapter 351.

(2) A school is exempt on religious grounds if the school meets the requirements of ORS 348.604 and 348.608. No rules in this division are applicable to a religious-exempt school, except as permitted by ORS chapter 348.

(3) A regionally accredited nonprofit school or separately regionally accredited campus of a nonprofit school that has operated at least one program approved by the Commission, or its predecessor agencies, in Oregon for at least five consecutive years is exempt unless otherwise noted under ORS Chapter 351 for the investigation and resolution of student complaints.

Stat. Auth.: ORS 348.604 & 348.606
Stats. Implemented: ORS 348.597, 348.604, 348.605
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; ECC 3-1981, f. & ef. 12-16-81; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0011**
**Modification for Schools Having Separate Regional Accreditation**

Effective January 13, 2015:

(1) The standards of a U.S. regional accrediting association shall be substituted for the standards in these rules for all Oregon operations of a school that has conferred degrees under the same control for five years in Oregon from at least one operationally separate unit accredited as a sepa-

rate institution by such association, provided the school submits for arbitration by the Higher Education Coordinating Commission any unresolved dispute in which a person alleges detrimental violation of a standard guaranteed by the accreditor but which the accreditor has declined to arbitrate. An "operationally separate unit" is a complete and semi-autonomous institution that has a core of full-time teachers, a separate student body, local administration for all educational functions, and academic programs comprising the totality of educational experience. The unit must be separately evaluated by the appropriate accreditor following regular procedures for the accreditation of an autonomous institution, and it must be listed as separately accredited in all regional and national directories.

(2) Upon substitution of standards, the commission will waive application requirements and apply abbreviated reporting requirements.

(3) Arbitration will be as informal as possible, including a sustained effort at compromise through mediation, and will occur only after all of the school's internal procedures for dispute resolution have been exhausted.

(4) Arbitration decisions will be based on the standards published by the accreditor as interpreted through continual consultation with the accreditor, and the commission will not substitute its judgment for that of school officials in the ordinary interpretation of factual evidence or the exercise of managerial discretion. In the absence of any obvious factual error that changes the decision record as a whole, the question for arbitration will be whether institutional procedures have been as promised and have led to an action consistent with the accreditation standards as interpreted reasonably and fairly.

(5) The commission, at its discretion, may refuse or discontinue arbitration in any case where the dispute is trivial in that it does not involve a significant question of standards, where a complaint is frivolous or indicates harassment of an institution by a complainant, where the issue is managerial judgment rather than an objective standard or of value preference rather than justice, where the matter falls within the more appropriate jurisdiction of another state agency to which appeal is readily available, or where a decision involves fundamentally the academic judgment of expert professionals on the faculty. No case that has entered litigation may be accepted for arbitration unless there is a binding suspension of litigious activities.

(6) Judicial review of an arbitration decision is available to either party under the Administrative Procedure Act, ORS chapter 183, which provides for review of agency orders in other than contested cases. A petition for judicial review of an order in other than a contested case may be made to the Circuit Court for Marion County or circuit court in the county where the petitioner resides, as provided in ORS 183.484.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & 348.606

Hist.: EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; Renumbered from 583-030-0037, ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; Suspended by ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0015**
**Definitions of Terms**

Effective September 10, 2015. The following definitions have particular application to one or more provisions of this division.

(1) "Academic year" means approximately nine months, conventionally during fall, winter, and spring.

(2) "Accredited" means approved to offer degrees at a specified level by an agency or association recognized as an accreditor in the U.S. by the U.S. Secretary of Education or having candidacy status with an agency or association whose pre-accreditation category is recognized specifically by the U. S. Secretary of Education as an assurance of future accreditation.

(3) "At risk" means the school demonstrates one or more of the following conditions that the Commission determines may cause potential serious problems for the continued successful operation of the organization: Failure to meet the standards of financial responsibility; Misrepresentation; Frequent substantiated complaints filed with the commission; Significant decrease in enrollment from the previous reporting year; or Significant staff turnover from the previous reporting year.

(4) "Certificate" means a formal academic award that signifies, purports, or may generally be taken to signify completion of a course of instruction for which college or university-level academic credit is given but which is shorter or more limited than that leading to a degree. Certificate includes the term "diploma" if used to mean a similar award. A certificate may be at the undergraduate or graduate level.

(5) "Class hour" or "contact hour" means approximately one hour of direct communication between a teacher and one or more students, minus time for rest or change of classes. Conventionally this has been a fifty-minute period.

(6) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe a degree had been obtained.

(7) "Credit," when the full term is "postsecondary or college credit," means indication or certification by a school that a student has completed a unit of study, demonstrated achievement or proficiency, or manifested measured learning outside of school so as to have satisfied a portion of the requirements for a degree or for any other academic recognition offered by the school.

(8) "Credit hour" means one postsecondary credit resulting from one of the following intended to result from at least 2 hours of student work out of class (or in equivalent lab time) for each contact hour in class, totaling:

(a) Approximately 45 hours of student work in a semester;

(b) Approximately 30 hours of student work in a quarter;

(c) An equivalent amount of student work under an alternate term calendar schedule approved by Office of Degree Authorization; or

(d) Equivalent student work demonstrated by student performance on a nationally recognized examination or evaluation acceptable to the commission.

(9)(a) "Degree" means any academic or honorary title, rank, or status that may be used for any purpose, which is designated by a symbol or series of letters or words such as, but not limited to, associate, bachelor, master, or doctor, and forms or abbreviations thereof that signifies, purports, or may generally be taken to signify:

(A) Completion of a course of instruction at the college or university level;

(B) Demonstration of achievement or proficiency comparable to such completion; or

(C) Recognition for nonacademic learning, public service, or any other reason of distinction comparable to such completion.

(b) "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to students and the public in ways that prevent such confusion or error.

(10) "Executive Director" means the executive director of the Commission, or the executive director's designee.

(11) "External degree" means a degree that can be earned mostly or entirely through correspondence, electronic recordings, or subscription telecommunications, rather than by resident instruction, except that some assistance may be provided for students face-to-face by school adjuncts in capacities such as advisor, mentor, tutor, clinic or practicum supervisor, topical speaker, occasional seminar leader, evaluator, or member of a thesis or study committee.

(12) "First-professional degree" means master's or doctor's degree conferred upon completion of a course of study for which admission into some schools may be gained with less than a baccalaureate, but for which pre-admission and professional study together invariably require more time than is required for a bachelor's degree alone, regardless of how many matriculants already have a bachelor's degree.

(13) "Full-time equivalent" or "FTE" means the number of students, teachers, or other personnel, any member of which may be engaged full time or part time, who in combined time expended would be the equivalent of one full-time unit of the kind being described.

(14) "Full-time student" means a student who is engaged in academic study as the student's primary occupation, thus ordinarily requiring 35 to 45 hours per week divided between interaction with teachers and independent preparation.

(15) "Graduate degree" or "post-baccalaureate degree" means a master's or doctor's degree conferred upon completion of a course of study for which admission can be gained only through possession of a bachelor's degree satisfactory to the school offering the graduate instruction.

(16) "General Education" is a term that includes liberal education and other nonvocational courses outside a student' major field.

(17) "Liberal Arts and Sciences courses" means courses in the following subjects:

(a) The humanities, such as language, literature, philosophy, religious thought, and fine arts (not emphasizing performance skills);

(b) The social sciences, such as anthropology, cultural geography, general history, religious history and culture, economics, political science, general psychology, and sociology; and

(c) The natural sciences, such as Biology, biological psychology, chemistry, physics, geology and physical geography, mathematics.

(18) "Limited resident instruction" means instruction by an accredited school consisting of less than 50 percent of a degree or certificate pro-

gram offered to more than one student at a physical site in Oregon, when the providing school is not otherwise authorized to offer degrees in Oregon.

(19) "Lower-division instruction" means course content and teaching at a level appropriate for first- and second-year postsecondary students generally (including all community college and associate degree instruction), but available to more advanced students who have no prior experience in the subject.

(20) "Non-Oregon school" means any school controlled from outside the state.

(21) "Offer a degree" means announce, advertise, declare, or imply orally or in writing the willingness or intention to confer a degree directly or to cause a degree to be conferred by agreement or arrangement with any person or school.

(22) "Oregon school" means any postsecondary school or organized group of postsecondary schools that has its principal executive offices in Oregon or is otherwise controlled effectively from within this state, regardless of the number of students served in various locations.

(23) "Practicum" means that portion of a degree program that involves a supervised field placement in a professional or workplace environment. For purposes of these rules, also includes "internship."

(24) "Professional and vocational courses" include, but are not limited to, courses in the following subjects: agriculture and forestry (or wildlife management), architecture and design, business and public administration, broadcasting or journalism, computer technology, education, engineering and related technologies, health professions, home economics, law, library science, military science, parks and leisure studies, physical education and recreation, protective services, religious services, artistic performance or physical activity courses, or practical and general information courses such as personal health, career planning, human relations, public speaking, elementary writing, elementary mathematics, and computer fundamentals.

(25) "Probation" means that a school has been officially notified by the Commission that it has deficiencies that must be corrected within a specified time based upon an inspection or other investigation that reveals lack of compliance with ORS 348.606 to 348.612 or the standards of OAR chapter 583, division 30, or when the school fails to meet the requirements set forth by the Commission while on "at risk" status.

(26) "Quarter" means one third of an academic year, typically 9-12 weeks in length and divided among fall, winter and spring.

(27) "Regionally accredited" means approved to offer degrees at a specified level by a regional institutional accreditor recognized for that purpose by the U.S. Secretary of Education.

(28) "Religious degree" means a degree with a title in theology or religious occupation(s).

(29) "Residential degree" means a degree earned primarily through resident instruction.

(30) "Resident instruction" means face-to-face teaching and learning at a school's main campus or other major facility with a regularity designed to accommodate full-time students and others who need continuous access to teachers and related resources on site.

(31)(a) "Restricted degree" means an external or semi-residential degree offered exclusively to employees or members of contracting organizations, which receive on their own premises services that may include direct or televised teaching by regular or adjunct faculty members of the school.

(b) "Restricted degree" does not mean a degree program that is open to all members of the general public who are qualified for admission.

(32) "School" means any person or persons and any organization or group of organizations, whether incorporated or not, engaging or appearing to engage in the activities of an educational entity or institution of learning, whether or not naming itself a school, college, university, institute, academy, seminary, conservatory, or similar term. The activities attributable to a school include but are not limited to teaching, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(33) "Semester" means half an academic year, typically 15-16 weeks in length, conventionally including a fall semester from September through December and a spring semester from January through May.

(34) "Semi-residential degree" means a degree that can be earned through a combination of residential and external methods but requires a substantial portion of learning from structured face-to-face teaching at a school's main campus or other major facility, or at a temporary instructional site where students meet in groups.

(35) "State academic standards" for Oregon means the standards provided in OAR 583-030-0035.

(36) "Term" means a segment of an academic year, ordinarily a semester or quarter but sometimes less. Term is the preferred descriptor for degree program courses using a nontraditional calendar.

(37) "Upper-division instruction" means course content and teaching appropriate for third- and fourth-year students or others with a strong background in the subject. Upper-division instruction is not offered in associate degree programs or by community colleges.

Stat. Auth.: ORS 348.594 & 348.606
Stats. Implemented: ORS 348.594, 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0016**
**Exclusive Use of Term "University"**

Effective January 13, 2015. The term "university" refers exclusively to a school that is authorized to offer bachelor's degrees together with graduate or first professional degrees, or to an organization that constitutes a formal consortium of schools so authorized. Any entity that calls itself "university" without authorization but with serious intent will be referred to the Department of Justice for enforcement under ORS 646. 605 to 646.652, Oregon's Unlawful Trade Practices Act.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.596, 348.603 & 348.606
Hist.: EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0020**
**Exercise of Office Authority**

Effective September 10 , 2015:

(1) A school that intends to offer to anyone from within Oregon or offer to Oregon residents from outside the state any form of instruction, lecture, training, tutoring, seminar, workshop, examination, evaluation, or other service represented as contributing credit or otherwise leading toward a specified or unspecified degree or certificate that will or might be conferred anywhere shall notify the Commission at least 6 months in advance and then promptly supply all information the Commission requests. Failure to notify the Commission in advance, or to provide information as directed, may result in permanent denial of approval for the school to offer any services in or from Oregon, as well as administrative action, up to and including assessment of civil penalties.

(2) Schools that offer no degrees in Oregon but want to offer a certificate are subject to the requirements of ORS chapter 345 and OAR chapter 715, division 45.

(3) Schools intending to apply for authorization or exemption from the commission shall provide the commission with information about the school's ownership and structure, proposed programs, and relationships to other institutions, if any. On the basis of this preliminary information, the Commission's executive director will determine whether the school:

(a) Must apply for state authorization to offer instruction or related services leading to one or more degrees under the standards of OAR 583-030-0035 or 583-030-0036;

(b) Is exempt for other than religious reasons under ORS 348.597;

(c) Is eligible for exemption under ORS 348.604 and therefore has a choice of standard state approval or religious exemption.

(4) A school that applies for degree authorization or exemption shall use forms and follow procedures determined by the Commission. Failure to comply constitutes good reason to reject an application. Such school shall be open to inspection and may be inspected at any time to verify its statements and to examine facilities. Inspection of a school and evaluation of its application will be performed by state officials or consultants at the Executive Director's discretion, and results will be utilized as the Commission considers appropriate. Information from other examiners, such as accreditors or professional licensing agencies, may accompany materials submitted by the school and may be used by the Commission at its discretion.

(5) Authorization to offer instruction or related services leading to a degree applies to specific curricula and services for specific periods:

(a) Authorization is normally given for the state as a whole, but may be limited by the Commission in order to ensure program quality or operational stability.

(b) The Commission, on the basis of judgment about the relationship between a curriculum and a degree title, may require revision of title. Degree titles may not contain the name of organizations, companies or products.

(c) Authorization is given for a specific degree for a fixed period of not less than two or more than four calendar years. The executive director may vary the length of approval periods by up to one year subject to the four-year limit in order to consolidate applications or renewals for the convenience of the school or the Commission.

(6) Authorization to offer instruction or related services leading to a degree expires at the end of the period for which it is given, without right or presumption of renewal, except that an authorized school having submitted a complete and timely application for renewal continues to be authorized until such time as a review or revocation procedure may determine otherwise. After discontinuing its offer of an authorized degree before the end of the period of authorization, a school shall not reinstate the degree without permission from the Commission. A program shall be deemed discontinued if a period of two academic years passes without any students being enrolled in the program.

(7) Authorization to offer instruction or related services leading to a degree is subject at all times to supplemental review if the school appears to be at risk or approaching probation, suspension or revocation for proper cause according to procedures described in OAR 583-030-0045.

(8) Approval of a degree by the commission does not constitute approval of the program as training for professional practice when the state licenses or otherwise regulates professional practice. Applicants must also seek approval from the appropriate state licensing entity.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.597, 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0025**
**General Conditions Required for Residential or Semi-residential Degree Program Authorization**

Effective January 13, 2015. All applicant schools must meet the following conditions to apply for initial or renewed authorization to offer a residential or semi-residential degree to Oregon residents or to offer any degree from within Oregon to persons anywhere.

(1) A school must appoint a responsible administrator who resides within the state and has a business address and telephone within the state, who may transact the essential business of application, and who in any case shall be made an informed party to all such business. If a non-Oregon-based school plans a small or narrowly specialized operation within this state, the executive director may permit the applicant to use an out-of-state administrator.

(2) All programs must be designed to allow all students to work toward a degree at a rate equivalent to at least half-time study.

(3) No school shall be eligible to apply for authorization to offer in or from Oregon any instruction or other services leading to a doctor's degree before it has obtained accreditation or pre-accreditation candidacy at or above the bachelor's degree level recognized by the U.S. Secretary of Education. However, offer of doctoral programs in another state by an unaccredited school will not automatically disqualify such school from authorization to offer degrees below the doctoral level in Oregon. The only exception to this provision is that a proposed school offering one or more doctoral programs leading to professional licensure in a field in which Oregon has such licensure may apply for approval from the Commission. In such cases, the school proposing to offer doctoral programs may apply for Commission approval only if the program is designed and intended to meet the standards for licensure required by the appropriate Oregon professional licensing board.

(4) A foreign (non-U.S.) school is eligible to apply for Oregon approval if it is approved to offer degrees by the appropriate agency in its home country and the Commission finds that its home country has adequate oversight of academic programs. Foreign schools are not limited to offering in Oregon the same degrees for which they have approval in their home country, but may not offer degrees at a higher level in Oregon than those for which they have authorization in their home country.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 1-2005, f. & cert. ef. 3-3-05; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0030**
**Application Procedure**

Effective September 10, 2015:

(1) A school seeking initial degree authorization should allow three months to prepare its application and six additional months for review by the Commission. Approval of exempt degrees and abbreviated reviews for certain external or semi-residential degrees or for limited or restricted residential instruction may require less time. To be considered timely, a complete application for renewal of an existing authorization must be submitted six months before the date that authorization expires, and a school seeking renewal is fully responsible for beginning the procedure.

(2) In order to be valid, application must be made by the method determined by the Commission, including completion according to instruction of any forms provided for the purpose. Modification will be allowed by explicit permission only. The applicant school shall submit any information requested by the Commission and may submit such supplemental information as it considers pertinent. The Commission will provide advice.

(3) Program approval may be made conditional on approval of employees hired after the approval date.

(4) Application for authorization to offer a degree or to provide services leading to a degree in whole or in part must be accompanied by payment of the fee described in OAR 583-030-0046 or such reduced fee as is determined by the Commission in special circumstances. Several curricula leading to the same degree may be submitted as part of a single application.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 1-2004, f. & cert. ef. 1-14-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0032**
**Review Process for Degrees**

Effective January 13, 2015:

(1) Review of an application to offer instruction or related services leading to a degree or certificate includes evaluation of the school and its proposed programs in relation to the state academic standards set forth in OAR 583-030-0035, or modified under 583-030-0036 for a non-Oregon school that will offer limited resident instruction in Oregon.

(2) Pursuant to OAR 583-030-0036, the Commission at its discretion may employ an abbreviated review procedure with adjusted fee for a non-Oregon school offering limited or restricted instruction in Oregon for an external degree.

(3) Review of free-standing certificate or diploma programs offered by degree-granting schools, or credit-bearing courses offered by schools that do not issue degrees in their own name will generally follow the model for associate degrees.

(4) In the course of evaluation, the Commission's staff will ordinarily inspect the facilities and records of an applicant school and interview officials, employees, or students of the school as necessary to obtain sufficient information. The staff may also interview employers of school graduates and representatives of organizations that appear closely related to the school.

(5) Where competency in a particular academic discipline is essential to an evaluation, the Commission's executive director may seek expert advice in that discipline. However, adequacy of instruction in a discipline will ordinarily be judged by faculty credentials in relation to the standards, by curricular content in comparison with similar programs of established quality, and by educational resources and student performance. Where competency in a particular occupation or profession is needed for an evaluation, the executive director will seek expert advice from the corresponding state licensing board.

(6) The Commission will not review sectarian content of curriculum for degrees with a religious title or significant religious content; the state's only concern will be to ensure that the curriculum has a reasonable structure related to credits awarded.

(7) The review culminates in preparation of findings, including explanation of any failure to satisfy a standard, which are provided to the applicant in a formal report. Approval is not granted until all standards are satisfied. If a standard cannot be satisfied in a reasonable length of time, approval will be denied.

(8) Refusal by the Commission to authorize an applicant school to offer instruction or related services leading to a degree is subject to right of review as provided in ORS 348.615 by an action brought for trial without jury in the circuit court of the county in which the school is located. A school or putative school having no physical location in Oregon at which students are served shall bring any such action in the circuit court of Marion County.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 26, f. & ef. 6-8-77; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; Renumbered from 583-030-0040, ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0035**
**Standards for Schools Offering Degree Programs In or From Oregon**

Effective September 10, 2015. In order to receive and hold authorization to offer in or from Oregon instruction or related services leading to one or more degrees, a school must remain open to inspection at all times and continuously satisfy each of the following standard requirements as written, except where the Commission approves modification under OAR 583-030-0036 or substitution under 583-030-0011. Standards are applicable to all programs.

(1) Name. The school shall use for doing business publicly a name that is consistent with its purpose and educational programs.

(2) Control.

(a) All persons responsible for upper management policy must be individually qualified by education, experience, and record of conduct to assure effective management, ethical practice, and the quality of degrees and services offered. Boards must collectively demonstrate financial, academic, managerial and any necessary specialized knowledge, but individual members need not have all of these characteristics. Any controlling organization or owner is subject to this standard.

(b) Administrators shall be paid by fixed salary and not by commission. Commission includes monetary and nonmonetary compensation. Any portion of payment that is based on enrollment of students recruited by the administrator or the administrator's staff is considered payment by commission.

(c) Teachers shall be paid by fixed salary and not by commission. Commission includes monetary and nonmonetary compensation. Any portion of payment that is based on enrollment of students recruited by the teacher is considered payment by commission.

(d) Nonprofit Schools:

(A) Persons who control a nonprofit school shall demonstrate a commitment to the school's best interest as a public trust.

(B) A nonprofit school shall have a published policy that is followed in practice against conflicts of interest at all organizational levels.

(e) For-profit Schools:

(A) A school operated for profit shall disclose fully to the Commission the specific financial interest of any involved organization or person, except that a large group of shareholders may be described generally. Any person or entity holding at least 5 percent of voting or common shares in a for-profit school must be named and the percentage of holdings disclosed. All business activities of interested organizations or persons are subject to disclosure.

(B) All board members, administrators, or owners of five percent or more of shares of an applicant school or parent corporation must disclose with explanation the following:

(i) Any prior felony convictions.

(ii) Any known violations of federal financial aid rules by a school of which the person was a board member or employee.

(iii) Any known violations of the policies of an accreditor by a school of which the person was a board member or employee.

(iv)Any previous or current ownership or administration of a school that closed or filed for bankruptcy.

(3) Organization.

(a) The school and any parent organization shall be organized so as to distribute responsibility clearly among positions in a logical structure that is consistent with services offered and qualifications needed to fulfill the duties of the positions. An individual may occupy more than one position.

(b) The school shall satisfy the Commission that all upper executive officers and other administrators are individually qualified by education, experience, and record of conduct to assure competent management, ethical practices, and effective educational service. Unless an exception is approved by the commission's executive director because of sufficient compensatory qualification, administrators above the entry level shall have experience related to their present duties, and all administrators with authority over academic programs shall possess appropriate degrees earned from schools that are regionally accredited or otherwise determined by the Commission to be acceptable.

(c) The school shall make available to the Commission an administrator generally responsible for school operations within the state and transaction of business with the Office. Unless an exception is approved by the Commission's executive director because of sufficient compensatory qualification, that administrator shall possess a degree at least as high as any offered by the school in connection with operations in Oregon, together with appropriate administrative experience.

(d) There shall be an academic officer for the entire school responsible for faculty and academic programs offered in or from Oregon. Unless an exception is approved by the Commission's executive director because of sufficient compensatory qualification, that officer shall possess at least a master's degree and shall possess a doctor's degree if the school offers any graduate or non-baccalaureate professional degree. That officer shall have experience in teaching and academic administration, both experiences appropriate to the level, size, and complexity of the school.

(e) There shall be a business officer for the entire school responsible for accounting and managerial services. Unless an exception is approved by the Commission's executive director because of unusual compensatory qualification, that officer shall possess at least a bachelor's degree in a business-related field, together with appropriate administrative experience.

(4) Teachers.

(a) The school must obtain and keep official transcripts for all teaching faculty.

(b) The school shall satisfy the Commission that all teachers are individually qualified by education and experience to give expert instruction or evaluation in their specialties. Unless an exception is approved by the Commission's executive director because of sufficient compensatory qualification, teachers shall be qualified for the various levels of instruction or evaluation as described below, with degrees earned from schools that are accredited by a federally recognized accreditor or otherwise determined by the commission to be acceptable.

(c) Standards applicable to specific degree levels. A person who does not hold the appropriate level and major degree as stated in subparagraphs (B) through (E) of this paragraph may demonstrate qualification by showing at least 12 semester or 18 quarter credits in the field at a level higher than the current teaching assignment combined with appropriate professional experience in the field. Teaching experience cannot be used to replace professional experience if this option is exercised, except for teacher education programs.

(A) Teachers in programs leading to degrees in the fine arts, including but not limited to art, music, dance, cooking, theater, photography, writing and other programs involving a significant creative element, may demonstrate qualifications with a documented combination of academic and creative work.

(B) Standards applicable to associate degree programs: A teacher on a faculty offering associate's degrees ordinarily shall possess a bachelor's degree appropriate to the subject taught or evaluated, except that compensatory nonacademic qualifications will be more readily accepted by the Office in programs leading to occupational degrees leading to professional licensure or the fine arts. Where the degree emphasizes transfer courses in the arts and sciences (primarily Associate of Arts degrees), the teacher ordinarily shall possess an appropriate master's degree.

(C) Standards applicable to bachelor's degree programs: A teacher on a faculty offering bachelor's degrees ordinarily shall possess an appropriate graduate degree in the field currently taught.

(D) Standards applicable to master's degree programs: A teacher on faculty offering master's degrees ordinarily shall possess an appropriate doctor's degree and some teaching experience, except that up to half of the teachers in an occupational or professional degree program may substitute for the doctorate a master's degree together with occupational or professional licensure or equivalent certification and related work experience. More substitutions may be permitted where the terminal degree for teachers in an occupational or professional field is not generally considered to be a doctorate.

(E) Standards applicable to doctoral degree programs: A teacher on a faculty offering doctor's degrees ordinarily shall possess an appropriate doctor's degree and substantial graduate or first-professional teaching experience, including experience overseeing advanced independent study or student practice, except that the doctor's degree alone may suffice for

teaching courses at the master's level generally or at any level in the teacher's particular subspecialty.

(d) There shall be sufficient numbers of teachers and so distributed so as to give effective instructional and advisory attention to students in all programs offered by the school.

(e) A school having an undergraduate FTE student-faculty ratio of greater than 30:1 or a graduate FTE student-faculty ratio of greater than 20:1 for students taught in or from Oregon must demonstrate that students and faculty have adequate opportunities for one-to-one interaction.

(f) A school that does not have at least one full-time teacher resident in Oregon or directly teaching Oregon students in each specialty must demonstrate with specific examples the adequacy of faculty contribution to organizational integrity and continuity, to academic planning, and to resident student development.

(g) The school shall have a faculty development policy that continuously improves their knowledge and performance.

(h) The school must provide the Commission with annual data regarding turnover of full-time teachers. The Commission may limit use of part-time teachers upon finding that such turnover or use results in substandard education of students.

(i) The school shall demonstrate an effort when hiring teachers to avoid dependence on its own most recent graduates. No more than 20 percent of all applicant school teachers can hold their highest degree from the applicant school unless fewer than 10 schools in the United States offer the highest degree available in the field. Schools offering solely religious degrees are exempt from this requirement.

(j) A teacher of an academic or scientific discipline within an occupational or professional degree program (e.g., economics within a business program, psychology within education, anatomy within nursing) ordinarily shall possess the appropriate degree in the discipline rather than a non-disciplinary occupational or professional degree. Lower-division undergraduate courses may be taught by those with non-disciplinary degrees who have demonstrable and extensive acquaintance with the discipline.

(5) Credit. The school shall award credit toward degrees proportionate to work done by students and consequent upon the judgment of qualified teachers and examiners. Credits are generally expressed as either semester (SCH) or quarter credit hours (QCH). One semester credit represents approximately 45 hours of on-task student work in a semester (usually two study hours per faculty contact hour). A quarter credit hour represents approximately 30 hours of student work in a quarter. Credit hours earned through nontraditional learning schedules shall have proportionate value to credit hours based on customary term lengths.

(a) Instructional methods:

(A) Credit awarded by the school shall be based solely upon the judgment of teachers who have had extensive direct contact with the students who receive it, with the exception of methods listed in these rules if approved in advance by Commission's executive director.

(B) At least one academic year of credit toward any degree, most of it near the end, shall represent teaching or direct evaluation by faculty members employed by the school, except that the Commission may approve a lesser amount for an associate's degree.

(C) Credit may be awarded for distance learning if the school demonstrates that it has adequate methods in place to ensure that student work is sufficient both in quality and quantity to meet the Commission's requirements, courses are developed and taught by qualified faculty and there will be sufficient interaction between students and faculty and, if possible, among students. The Commission may limit or disallow credit awarded for any type of distance learning if the school cannot demonstrate adequate oversight and quality control measures.

(D) Transfer credit integral to the school's approved degree curriculum may be awarded at the corresponding degree level for academic work documented by other schools that are accredited, authorized to confer degrees in or from Oregon, or otherwise individually or categorically approved by the Commission. Such credit must be at a "C" grade or above, and converted as needed from semester, quarter or nontraditional calendar systems.

(b) Non-instructional Methods. No more than one year of an academic program can be completed using any combination of the non-instructional methods set forth in subparagraphs (A), (B), and (C) of this paragraph:

(A) Advanced Placement credit integral to the approved degree curriculum may be awarded in the lower-division up to a limit of one academic year for passing examinations constructed by testing organizations satisfactory to the commission.

(B) Challenge examination credit as an actual component of the approved degree curriculum may be awarded only for successful performance on a final course examination, or on a similar test covering all course content, given by the school in lieu of requiring class attendance. No more than 25 percent of a program may be earned through challenge examinations.

(C) Noncollegiate learning integral to the approved degree curriculum may be awarded credit only at the undergraduate level for learning validated by a student portfolio, a credit evaluation guide issued by the American Council on Education, or a similar criterion. Such learning must be formulated through sufficient contact between teacher and student, communicated competently in terms of ideas (e.g., concept, generalization, analysis, synthesis, proof) rather than mere description, and judged by faculty members or contracted experts demonstrably qualified to evaluate it. Upper-division credit of this type may be awarded only in academic fields in which the school employs its own faculty. No more than 25 percent of an undergraduate degree program may be earned through award of credit for noncollegiate work.

(6) Curriculum. The school shall assure the quality of all attendant teaching, learning, and faculty-student interaction. The curriculum shall have a structure that reflects faculty responsibility for what is to be learned overall, as well as in each course, and thus for the logical sequence and increasing difficulty of subjects and instructional levels. While requirements are sometimes listed in both semester and quarter credit hours, the commission usually states credit hours as semester credit hours. If quarter credits are not listed, colleges using the quarter system should multiply the stated credits by 1.5 to obtain the correct requirement in quarter credit hours (QCH) under quarter systems. These are the basic requirements for different kinds of degrees available in Oregon. The Commission's executive director may approve minor variations from these curriculum standards in order to allow programs to operate efficiently.

(a) Undergraduate Programs. All associate and bachelor's degrees require one year (at least 6 semester (SCH) or 9 quarter credit hours (QCH) or equivalent alternate term credit hours) of English composition or equivalent commission-approved writing courses. Students may meet this requirement by achieving a score on a nationally normed test that would permit a waiver of English composition requirements or the award of academic credit in English composition at an accredited college or university.

(b) Associate's Degrees. An associate's degree requires at least two academic years (60 semester credit hours or 90 quarter credit hours) in FTE postsecondary study. The degree requires at least 15 SCH or 22 QCH in general education courses, including the undergraduate English composition requirement.

(A) Associate of Arts. A full-transfer degree, the A.A. requires two academic years applicable to B.A. or B.S. study fulfilling baccalaureate liberal arts requirements. A major is optional. Thus, the A.A. requires 24 SCH (36 QCH) in the liberal arts and sciences, with at least 6 hours (9 QCH) each in the humanities, sciences, and social sciences.

(B) Associate of Science. A limited-transfer degree, the A.S. requires a major and two academic years applicable to professional or technical baccalaureate study. The A.S. degree requires 24 SCH (36 QCH) in the humanities, sciences and social sciences, or in non-vocational courses closely related to them.

(C) Associate, Professional or Technical. A terminal degree, the professional or technical associate's degree requires a major (Degree title examples: Associate of Applied Arts, Associate of Applied Science, Associate of Technology, Associate of Occupational Studies, Associate of Business, Associate of Religion). In addition to the major requirements, this degree requires the basic 15 SCH or 22 QCH in general education courses, including the English composition requirement.

(c) Bachelor's Degrees. A bachelor's degree, or baccalaureate, requires at least four academic years (120 SCH or 180 QCH) in FTE postsecondary study. At least 40 semester credit hours (60 QCH) shall be in upper-division courses, and no more than two academic years of instruction (no more than 50 percent of credit hours used for the degree) shall be from schools that do not offer baccalaureate degrees.

(A) General Education: The degree requires one academic year (at least 30 SCH or 45 QCH) of general education, which includes the one-year undergraduate English composition requirement.

(B) Major Field: The degree requires distinct specialization, i.e., a "major," which entails approximately one academic year of work (30 SCH or 45 QCH) in the main subject, with 20 SCH (30 QCH) in the upper division and 15 SCH (22 or 23 QCH) of upper-division hours taught by the resident faculty. A dual major simply doubles these numbers.

(C) An interdisciplinary major is also permitted. It requires two academic years (60 SCH) in either three or four disciplines, with at least 15 hours in each discipline and at least 9 upper-division hours in each. A school may offer a major or an interdisciplinary option in any field in which it has more than one fully qualified teacher if at least one teaches full time.

(D) Degrees. The following bachelor's degree names, levels and types are available in Oregon:

(i) Bachelor of Arts. An arts degree, the B.A. requires competency in a foreign language and one academic year in the humanities, i.e., 30 SCH, of which 12 can be in foreign languages. The language competency requirement is equivalent to the 12 hours, the second-year level, and ESL students can satisfy it with 12 hours of English language and literature. As general education outside the major, the B.A. requires 24 SCH in the liberal arts and sciences, with at least 6 hours in each of the three areas: humanities, social sciences, and natural sciences.

(ii) Bachelor of Science. A science degree, the B.S. requires one academic year in the social or natural sciences, i.e., 30 SCH, of which 12 can be in mathematics and state-approved computer courses. As general education outside the major, the B.S. requires 24 SCH in the liberal arts and sciences, with at least 6 hours in each of the three areas: humanities, social sciences, and natural sciences.

(iii) Bachelor, Professional. As general education outside the major, the professional bachelor's degree requires 24 SCH hours in the liberal arts and sciences, with at least 6 hours in each of the three liberal arts and sciences areas: humanities, social sciences, and natural sciences.

(iv) Bachelor, Technical. As general education outside the major, the technical bachelor's degree requires 24 SCH in the liberal arts and sciences, or in non-vocational courses closely related to them, with at least 3 semester hours in each of the three areas: humanities, social studies, and natural sciences, and a total of at least 9 in the two areas most unrelated to the major.

(d) Graduate Degrees. A graduate curriculum shall reflect a concept of the graduate school as a group of scholars, the faculty members of which have had extensive collegiate teaching experience and are engaged in the advancement of knowledge. A graduate degree must involve teaching by such qualified faculty and cannot be earned solely by testing and/or portfolio review.

(A) A master's degree shall require at least one full academic year in FTE post-baccalaureate study, except that a first-professional master's degree may be authorized for study beyond fulfillment of undergraduate requirements approved by the commission if the total period of study is at least five academic years. The curriculum shall specialize in a single discipline or single occupational or professional area and culminate in a demonstration of mastery such as a research thesis, a work of art, or the solution of a practical professional problem.

(B) A doctor's degree shall require at least three academic years in specialized post-baccalaureate FTE study, except that a first-professional doctor's degree may be authorized for four academic years of study beyond fulfillment of undergraduate requirements approved by the commission. Study for a closely related master's degree may be counted toward doctoral requirements. The doctor's degree shall represent a student's ability to perform independently basic or applied research at the level of the professional scholar or to perform independently the work of a profession that involves the highest levels of knowledge and expertise. Requirements for the degree shall include demonstration of mastery of a significant body of knowledge through comprehensive examination, unless a graduate must pass a similar examination in order to be admitted to professional practice in Oregon. The curricular program of a research degree shall be appropriately broad and shall manifest full understanding of the level and range of doctoral scholarship, the function of a dissertation and its defense, the nature of comprehensive examination, and the distinction between matriculation and degree candidacy.

(7) Learning. The school shall require each student to complete academic assignments and demonstrate learning appropriate to the curriculum undertaken.

(a) Teachers or evaluators shall inform students clearly using a syllabus or similar instrument of what should be learned in each course and how it will be measured.

(b)(A) Expectations of student performance shall be increased with each ascending step in degree level. Higher degrees must represent an increase in the difficulty of work and expectations of students, not simply an accumulation or increase in quantity of student work.

(B) Evidence of expectation (e.g., syllabi and sample exams) and performance (e.g., student grades) shall be retained for all academic courses for at least one year.

(c) The school shall require students to make continuous progress toward a degree while they are enrolled and liable for tuition and shall suspend or dismiss those who do not make such progress, except that a period of probation with guidance may be instituted in order to obviate separation of a student who can be expected to improve immediately. Continuous progress for students receiving Title IV federal student aid shall be defined according to federal Title IV standards. Students not receiving Title IV federal student aid shall meet the school's own published standards for satisfactory progress.

(d) Grading and appeal procedures shall be fair and administered equitably, and criteria of student progress shall be validated by research if not obviously valid.

(8) Recruitment:

(a) The school is responsible for ensuring that its recruitment agents are knowledgeable about the school's:

(A) History and accreditation;

(B) Programs of study;

(C) Admission and assessment requirements;

(D) Ability to assist in providing housing and/or job placement;

(E) Financial policies and procedures, including the point at which students can expect to receive financial aid disbursements;

(F) Refund policy;

(G) Graduation requirements and rates;

(H) Rules and regulations; and

(I) Placement rates if they are used in recruiting.

(b) The school is responsible for insuring that its recruitment agents are providing accurate, realistic information about the school, its policies and achievements, and its ability to assist students.

(c) A prospective student shall receive a complete description of the school and its policies, including an estimate of annual or program costs, before being enrolled. This estimate is not binding on the institution but must give prospective students a reasonable idea of their financial commitment.

(d) Where a degree or certificate implies preparation for a specific occupation, the school shall explain clearly the true relationship between its curriculum and subsequent student qualification for occupational practice, including employment rates in the field and graduates' success rates in passing licensure examinations if applicable. Employment rates in the field claimed by a particular program shall treat graduates as employed in the field only if the position in which the graduate is employed meets the following conditions.

(A) is at least half-time.

(B) is usually filled by a person with a credential of the kind offered by the program or is one in which holders of such a credential have a competitive advantage in the workplace because of training of the kind provided by the program.

(C) employs the graduate within six months of program completion in a position that is intended to be permanent, i.e. not for a defined period of time. The school has the burden of showing that the position is intended to be permanent.

(e) The school shall take precautions to avoid unrealistic expectation of housing availability and cost when the school does not provide housing and job placement, including part-time employment and practica during the student's enrollment.

(f) A claim made to attract students shall be documented by evidence available to any person on request. The school shall make no attempt to attract anyone who does not appear likely to benefit from enrollment, and no attempt to attract students on any basis other than instruction and campus life appropriate to an educational institution.

(g) Outside the regular student financial aid process, there shall be no discounting of tuition as an incentive to enroll.

(h) The school shall not contract with a third-party entity, independent contractor or corporation for the recruitment or enrollment of students where payment to the third-party is based wholly or in part on a commission basis. Commission includes monetary and nonmonetary compensation.

(9) Admission. The school shall offer admission only on receipt of evidence that the applying student can reasonably expect to complete a degree and to benefit from the education obtained.

(a) A student admitted to undergraduate degree study for the first time shall have either a standard high school diploma, a comparable credential issued outside the United States or a GED. Home-schooled students without a standard diploma or GED may only be admitted if they can demonstrate the ability to perform college-level academic work through use of an ability-to-benefit test. Modified diplomas, extended diplomas and other

kinds of K-12 leaver certificates are not considered diplomas for purposes of college admissions. Students holding such nonstandard certificates can be admitted only through use of an ability-to-benefit test.

(b) A student admitted to undergraduate degree study with undergraduate experience shall have a record of successful performance therein or else a record of responsibility and achievement following unsuccessful collegiate performance.

(c) A student admitted to graduate degree study shall have a baccalaureate degree from a school that is accredited, authorized to confer degrees in Oregon, or otherwise approved by the Commission either individually or by category.

(d) A student admitted to first-professional degree study shall have at least three academic years of accredited or Commission-approved undergraduate credit, graded average or better, including pre-professional courses specified by the school and approved by the commission.

(10) Guidance. The school shall help students to understand the curriculum and to make the best use of it.

(a) There shall be a program of general orientation for new students.

(b) Each student shall be assigned a qualified academic advisor to assist individually in planning, course selection, learning methods, and general adjustment.

(c) The school shall provide career guidance to the extent that curriculum is related to a specific prospective occupation or profession.

(11) Student Affairs. Through both services and supervision the school shall demonstrate commitment to the success of individual students and to maintenance of an atmosphere conducive to learning.

(a) Rules of student conduct shall be reasonable, sufficiently specific, fully communicated, systematically and equitably enforced, and accompanied by policy and practice of disciplinary due process, including notice and hearing and related rights.

(b) Health, counseling or psychological services provided to students must meet requirements for professional practice in Oregon.

(c) Housing where provided or endorsed by the school shall be conducive to study and adequately supervised.

(d) Financial aid services shall be provided by qualified administrators.

(e) Placement services where provided shall be described clearly to students, and the school shall take precautions to avoid unrealistic expectation of placement.

(f) Records documenting relationships between the school and a student shall be open to that student, who may request changes or enter dissenting comments, and the content of records shall be objective and fair. Records that originate with a third-party regarding a complaint against a student shall be open to the student so long as all identifying information such as names and addresses shall be redacted prior to producing the records to the student. The private notes of a counselor are not to be considered educational records and shall not be transmitted as such, either inside or outside the school. All medical records are confidential, subject to state and federal laws and shall not be released without permission of the patient.

(g) There shall be available to undergraduate students and responsible for student affairs an official who possesses knowledge, skill, and managerial experience particularly appropriate to the function, unless the Commission waives this requirement. In general, waivers are granted only for small startup schools in their first approval cycle and for schools that mainly teach people who are of nontraditional age (23 or older) or already in the workforce.

(h) Every school shall distribute a student handbook or similar publication describing services and regulations, unless such descriptions are complete in the school's main catalog.

(12) Information. The school shall be scrupulously ethical in all communication with the public and with prospective students. School publications, advertisements, and statements shall be wholly accurate and in no way misleading. Reference to state approval shall be limited to that described in OAR 583-030-0041. Reference to accreditation shall be limited to that defined in OAR 583-030-0000.

(a) The school shall publish at least every two years a catalog or general bulletin. The catalog shall contain a table of contents and adequate information concerning period covered, school name and address, telephone numbers, state approval, purpose, relationship to occupational qualification, faculty and administrators (listing position or teaching specialization together with all earned degrees and their sources, omitting unearned degrees and not confusing professional licenses with degrees), degree requirements and curricula, academic calendar, credit policy in accordance with subsection (5) of this rule, transferability of credit to other schools, admission requirements and procedures, academic advising and career planning, academic policies and grading, rules of conduct and disciplinary procedure, student services (e.g., counseling, health, placement, housing, food, bookstore, activities, organizations), student records, library, facilities, fees and refunds, estimated total expenses, financial aid, average total student loan debt students leave the school with, and job opportunities for current students. Electronic publication meets this standard provided that the electronic catalog is provided to the Commission, is available to students upon request, and is maintained securely with the school as the official version in order to avoid confusion if electronic versions are changed. Paper copies of the school catalog shall be maintained by the school and made available to the Commission and students upon request.

(b) A school without regional accreditation shall print in a separate section of its catalog titled "transfer of credit to other schools" a statement warning students verbatim that "transfer of credit is always at the discretion of the receiving school, generally depends on comparability of curricula, and may depend on comparability of accreditation." Other comments may follow concerning the school's documented experience in credit transferability, but it must be clear that a student should make no assumptions about credit transfer.

(c) A school authorized to offer instruction or related services leading to one or more degrees under the standards in OAR 583-030-0035 shall provide students, prior to enrollment, a copy of a basic program and school fact page for each program for which a certificate or degree is offered. The fact page shall include information regarding:

(A) The total cost of the program;

(B) Programmatic and institutional accrediting bodies;

(C Transfer of credit to other accredited institutions, listing of any transfer articulation agreements with other institutions and in an attached document make available to students the related transfer articulation prerequisite information;

(D) Program length, and the average time students take to graduate by program, and at whole school level;

(E) Graduation rate;

(F) Median borrowing (federal and private loans) amount, and median annual loan payments of students;

(G) Loan default rate;

(H) Job placement success which is defined as a percent of students who are employed in the field of study (by program);

(I) Median starting salary for graduates;

(J) Gainful employment results as outlined under U.S. Department of Education accountability metrics; and

(i) The Commission, at its discretion, may waive the requirement above for non-career/non-vocational academic programs offered by regulated Oregon non-profits.

(ii) A school authorized to offer instruction shall submit to the Commission a copy of the program fact page for each program on or before September 1 of each year commencing 2016; however, for the school year 2015-2016 the fact page documents shall be provided within 90 days of the date of the promulgation of these rules.

(13) Credentials. The school shall provide accurate and appropriate credit transcripts for students who enroll and diplomas for students who graduate.

(a) The school shall maintain for every past and present student, and shall issue at the request of any student who is not delinquent in fee payment, a current transcript of credits and degrees earned. The transcript shall identify the school fully and explain the academic calendar, length of term, credit structure, and grading system. It shall identify the student and show all prior degrees earned, details of any credit transferred or otherwise awarded at entry, and periods of enrollment. It shall include for each period of enrollment every completed course or module with an understandable title, number of credits earned, and grade received. The transcript shall note with or without explanation if the student is not immediately eligible to continue enrollment, e.g., for reasons of academic probation or suspension.

(b) Upon satisfaction of degree requirements and payment of all fees owed, the school shall provide the graduating student with a diploma in a form approved by the Commission, appropriately documenting conferral of the degree.

(14) Records. The school shall keep accurate and secure records affecting students. There shall be at all times complete duplicate transcript information kept in a location away from the original transcripts, such that duplicates and originals are not exposed to risk of simultaneous damage. In addition to transcripts, which may never be destroyed, the school shall maintain detailed records documenting the significant parts of its formal relationship with each student including: financial transactions and

accounts, admission qualifications, validation of advanced standing, instructor course records as posted to transcripts, and status changes due to unsatisfactory performance or conduct. Such supporting records shall be kept in a secure location for a period of at least three years after a student has discontinued enrollment. Instructor course records other than those posted to transcripts shall be kept for at least one year.

(15) Library. The school shall provide or arrange for its faculty and students direct or electronic access to verbal and sensory materials sufficient in all subjects of the curriculum to support instruction and to stimulate research or independent study.

(a) The school may arrange for comprehensive privileges from libraries of other organizations, provided it can prove convenient access and extensive use, but the school shall retain full responsibility for adequacy of resources available to students.

(b) Library services shall be under the direction of a person educated professionally in library and information studies, except that the Commission may waive this requirement where the range of academic fields represented is narrow.

(c) Library resources shall be current, well distributed among fields in which the institution offers instruction, cataloged, logically organized, and readily located.

(d) The school should conform to the following guidelines for library services unless it can justify a deviation on the basis of unusual educational requirements.

(A) With the exception of those in specialized associate's degree programs, students should receive direct, contracted or electronic access to a minimal basic collection equivalent to that held by accredited schools offering similar programs. The applicant school must demonstrate this capability.by submitting to the Commission copies of contractual arrangements with resource providers and related resource references that will be available to students.

(B) Staff should include a professional librarian for each 1,000 students, with clerical support adequate to relieve librarians of all non-professional duties.

(C) Students should have full access to all resources for at least 40 hours per week, and all services should be available for 20 hours per week. The facility, whether provided by the college directly or by contract, should seat no less than 10 percent of the students enrolled unless the program is primarily intended to train practitioners in technical or fine arts fields, in which case a lower percentage may be requested. If the school meets the library standard largely by electronic means, electronic services must be available to a comparable portion of the student body for a comparable period.

(16) Facilities. The school shall have buildings and equipment sufficient for the achievement of all educational objectives.

(a) Buildings in general, including student or faculty housing units, shall be uncrowded, safe, clean, well furnished, and in good repair; and they shall be well lighted, heated, ventilated, and protected from noise. School grounds, where provided, shall be appropriately used and adequately maintained.

(b) Instructional facilities shall be adequate and conducive to learning. There shall be no less than 15 square feet per student station in classrooms, with at least one station for every two FTE students enrolled. Total classroom and study area, including library space for reading, shall be no less than 10 square feet per FTE student.

(c) Laboratory space and instructional equipment shall be inventoried, its use explained on the resulting report, and its adequacy defended on criteria obtained from experts and documented by the school. A laboratory ordinarily shall have no less than 30 square feet per student station.

(d) Clinical facilities and other public service areas shall be appropriate for instruction of students as well as for service to patients or clients.

(e) Faculty offices shall be sufficient to prevent crowding and to allow private conversations with students.

(17) Finance. The school shall have financial resources sufficient to ensure successful continuing operation and to guarantee full refund of any unearned tuition. There shall be competent financial planning using complete and accurate records. The school shall demonstrate satisfaction of this standard upon application, and thereafter annually, by submitting independently audited financial statements with opinion by a certified public accountant.

(a) Financial reports shall be prepared in a format acceptable to the Commission, clearly delineating assets and liabilities and informatively classifying revenues by source and expenditures by function. In some cases, the Commission at its discretion may accept an audited balance sheet with opinion, together with annual operating statements that have been reviewed by the auditor. A school that is a subsidiary shall submit financial statements of the parent corporation on request. The Commission's Executive Director may require a special investigative audit and report.

(b) Current assets shall be entirely tangible and such that the school is not dependent for solvency on substantial increases in receivables collection rate, gifts, tuition rates, or enrollment. Prospective tuition for which a student is not legally liable is not an asset and shall not be shown as a receivable or other balance sheet asset. Tuition collected but still subject to refund shall be shown as a "prepaid" or "unearned" tuition liability.

(c) A school unable to demonstrate financial strength may be required at the discretion of the Commission's Executive Director to increase the amount of its surety bond or letter of credit in an amount equal to the largest amount of prepaid tuition held at any time. The bond or letter of credit would be subject to claims for tuition refund only.

(d) The school shall carry casualty and general liability insurance sufficient to guarantee continuity in case of accident or negligence, and it shall provide or else require by policy professional liability insurance for all of its officers and employees.

(18) Fees and Refunds. The school shall maintain fee and refund policies that are fair, uniformly administered, and clearly explained in the school catalog as well as in any contract made with students. A student shall not be enrolled without having received the explanatory material. The school shall not change its tuition or fees more than once during a calendar year.

(a) Tuition shall be charged by the credit hour or by fixed rate for instruction during an academic semester, quarter, or shorter term. No student is obligated for tuition charged for a term that had not commenced when the student withdrew or a term that was truncated by cessation of school services. The student may make a claim on a surety bond or letter of credit under OAR 583-030-0051 and OAR 583-030-0052.

(b) Except as noted below in this section, fees not included in tuition shall not exceed five percent of full-time tuition for any term in which separate fees are charged. One-time application or admission fees may exceed 5 percent of first-term tuition but shall not exceed $200. Lab or equipment fees related to the actual necessary operational costs of specific courses may exceed 5 percent of tuition provided that the fees are made known to students prior to enrollment in the course. Nominal fees for late payments, course withdrawals and the like are acceptable.

(c) After classes begin for a term, a student who withdraws from a course is eligible for a partial refund through the middle week of the term. Refunds shall be based on unused instructional time and shall be prorated on a weekly basis for schools using a semester, quarter, or nontraditional calendar. Refund rates shall not be differentiated on the criteria of a student's source of income or loan repayment obligations except as otherwise required by law without specific Commission approval.

(d) Any fees for credit transferred, for credit attempted or earned by examination or portfolio must be based on the actual cost of service to administer such credits. This is ordinarily less than the cost of regular instruction. The mere award of credit does not justify a fee.

(e) Academic policies shall not artificially prolong the enrollment of a failing student with the effect of increasing financial obligation.

(f) Separation from the school for reason of discipline or other administrative action shall not cause forfeiture of ordinary refund amounts.

(19) Evaluation. The school shall, in order to improve programs, evaluate its own educational effectiveness continually in relation to purpose and planning, including in all aspects the opinions of students. There shall be evaluation of present curriculum and instruction, of attrition and reasons for student withdrawal, and of performance by students after their graduation. In addition to the comments of graduates, employer opinions and licensing examination records should be used in the post-graduation study.

(20) Fair Practice. Notwithstanding the absence of a specific standard or prohibition in this rule, no school authorized to offer degrees or seeking to qualify for such authorization shall engage in any practice that is fraudulent, dishonest, unethical, unsafe, exploitive, irresponsible, deceptive, or inequitable and thus harmful or unfair to persons with whom it deals.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; ECC 3-1981, f. & ef. 12-16-81; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2002, f. & cert. ef. 2-19-02; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 2-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0036**
**Schools With Limited Resident Instruction in Oregon**

Effective January 13, 2015:

(1) Accredited schools offering limited resident instruction in Oregon are reviewed using modified standards and procedures under the following conditions:

(a) Courses are highly specialized or offered for a period of less than three years;

(b) Information from the school is clear;

(c) Advice and assistance are accessible for students;

(d) Tuition refund policies meet requirements established by the Commission;

(e) Program evaluation is done systematically by the school;

(f) Curricula for Oregon students are identical to those at a main campus;

(g) Instruction relayed either live or on recordings is received in Oregon just as it was presented during resident instruction;

(h) Academic assignments and testing and grading policies for Oregon students are identical to those for students on a main campus; and

(i) All members of the faculty teaching from Oregon or teaching Oregon students hold degrees meeting Oregon standards.

(2) If limited or restricted residential instruction is authorized, the client organization must ensure full library services, employ persons qualified by a higher degree and experience to judge the quality of the degree program, and appoint a site coordinator who will assist with any inspections and provide information to the Commission.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0041**
**Authorization Statement in School Catalog**

Effective January 13, 2015:

(1) Upon receipt of authorization to offer instruction or related services leading to one or more degrees, and until such time as that authorization has expired or been revoked, an Oregon school shall print the following statement prominently on the inside front cover, facing page, or other page approved by the Commission of its catalog and any general bulletin, shall include the statement with any internet web site announcement, and may publish the statement in other school announcements. Choose one descriptive term from each parenthetical pair.

This school (is) (is a unit of) a (business) (nonprofit) corporation authorized by the State of Oregon to offer and confer the academic (degree) (degrees) described herein, following a determination that state academic standards will be satisfied under OAR chapter 583, division 30. Inquiries concerning the standards or school compliance may be directed to the Commission (use current address).

(2) A non-Oregon school shall print or affix the above statement on the inside front or back cover (preferred) or on an appropriate page approved by commission's executive director of every catalog distributed in Oregon.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0042**
**Reporting Requirements**

Effective September 10, 2015:

(1) A school authorized to offer instruction or related services leading to one or more degrees under the standards in OAR 583-030-0035 shall submit to the Commission annually, a detailed listing of students including personal student information, such as; personal identification, demographic and program information in a form and format as directed by the Commission. In addition, in a form provided by the Commission, a brief report of activities and planning in the academic or fiscal year just ended. In its report, the school shall describe any important changes in academic or administrative policies, facilities or locations of instruction, and organization or personnel. The school shall also supply data such as teacher turnover and student enrollment, completion, and placement as requested on state forms provided by the commission, together with current catalogs and the latest independent financial audit not previously submitted. Between annual reports, the school shall send to the commission promptly qualification forms of new owners, governing board members, officers, administrators, or teachers serving Oregon students, and shall send immediately the details of any possible or anticipated change of ownership or governance or any other matter having extensive effect on the school.

(2) A school authorized to offer instruction or related services leading to one or more degrees under OAR 583-030-0011 shall report as described in the preceding paragraph, except that reporting of new governing board members, officers, administrators, or teachers is not required. The reporting of any possible or anticipated change of ownership or governance or other major change should be immediate.

(3) A non-Oregon school authorized to offer instruction or related services leading to one or more degrees but without resident instruction or with limited resident instruction in Oregon under OAR 583-030-0036, shall submit to the commission annually, a detailed listing of students including personal student information, such as; personal identification, demographic and program information in a form and format as directed by the Commission. In addition, in a form provided by the Commission, a brief report of activities and planning in the academic or fiscal year just ended insofar as Oregon students would be affected. In its report, the school shall describe as they might affect Oregon residents any important changes in academic or administrative policies, facilities or locations of instruction, and organization or personnel. The school shall also supply Oregon enrollment and degrees-granted data on a state form provided by the commission, together with current catalogs and the latest independent financial audit not previously submitted. Between annual reports, the school shall send to the commission's executive director immediately details of any possible or anticipated change of ownership, governance, curriculum, Oregon site coordinator, teachers or other matter having potential importance to Oregon students. This provision does not apply to a non-Oregon school authorized in Oregon through a reciprocity agreement, such as the State Authorization Reciprocity Agreement (SARA).

(4) A school that offers exempt religious degrees is subject to the annual self-certification requirements set forth in ORS 348.608.

(5) An authorized degree-granting school shall continue during the period of its authorization to respond promptly to any requests made by the commission's executive director for general or particular information and shall supply the information as directed. Monthly reporting will be required for a school determined to be at risk.

(6) A school that ceases to offer any authorized or exempted degree or the instruction related thereto, other than during regular academic recesses, shall notify the commission's executive director immediately and may not reinstate the degree program without permission.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.596 & 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0043**
**Duty to Notify Employees and Students of Change in Status**

(1) Effective September 10, 2015. Any school that has been placed on at risk, probation, or suspension status shall immediately, in writing, notify all employees, students and prospective students of the change in status. A posting of the change in status should be visible on the school's website, social media or other official platform of the school, including all information bulletins at the school site.

(2) Any school for which degree authorization has expired or been revoked or suspended shall immediately in writing notify all employees and students of its change in status. The school shall not lead students or employees to conclude that restoration of degree granting is assured.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0045**
**At-Risk, Probation, Revocation or Suspension of Authorization**

Effective September 10, 2015:

(1) While on "at-risk" status the school must notify enrolled students, staff, and prospective students (prior to enrollment) in writing that the school has been placed "at risk" by the Commission. The notification to students, prospective students, and staff shall be immediate upon the school

receiving the Commission's determination notice. A school determined to be "at risk" at any time, will be required to provide:

(a) A corrective action/school improvement plan acceptable to the Commission within 30 days after being notified by the Commission;

(b) A revised Surety Bond or letter of credit if appropriate; and

(c) A monthly report for up to 12 months. During that time the school shall demonstrate improvement or the Commission shall proceed with further action of probation, suspension, or revocation as deemed necessary.

(2) Whenever an inspection or other investigation reveals lack of compliance with Oregon Revised Statutes, ORS 348.606 to 348.612 or standards of OAR chapter 583, division 30, the Commission may determine the school is at risk. Upon such determination, or when the school fails to meet the requirements set forth by the Commission while on an "at risk" status, the Commission shall officially notify the school in writing that the school has been placed on probation and provide the school with a report of deficiencies. When deemed appropriate, the Commission may initiate immediate suspension or revocation proceedings and schools will be provided due process through the provisions allowed in sections 2 and 3 of this rule. If the Commission elects to place the school on probation, the school shall have 20 calendar days after date of notification to report on actions that have been taken to correct these deficiencies:

(a) The school's response shall indicate corrective action taken and/or a program improvement plan for correcting any remaining deficiencies;

(b) If violations cited are not corrected, or if a program improvement plan submitted to correct the violations is not acceptable to the Commission, the director shall send notice to revoke or suspend the school's authorization;

(c) The school may request a hearing within 21 calendar days of receipt of the commission's notice to revoke or suspend the school's license; and

(d) A school and program that has been placed on probation shall not engage in any advertising, recruitment or student enrollment activities, or begin the instruction of any new students during the period of probation. Until it satisfies the requirements set by the Commission, the school must notify enrolled students, employees and any prospective students in writing that the institution has been placed on "probation" by the Commission. The school must also place notice of the probation at the physical site of the school, if there is such, and on any website, social media or other official platform of the school. The notification to students, prospective students, and staff shall be immediate upon the school receiving the Commission's determination notice.

(3) The Commission, after a hearing before an Administrative Law Judge, may under ORS 348.612, revoke or suspend authorization given to a school to confer or offer to confer degrees in or from Oregon, or to offer instruction or related services in or from Oregon purporting to lead to a degree in whole or in part. Revocations resulting from a change in state or federal law or judicial ruling do not require the use of a hearing officer.

(4) A hearing to consider a proposed revocation or suspension shall be held only after the affected school has been given written notice of the time and place of such hearing 21 days in advance.

(5) Revocation or suspension of degree authorization applies to a school as a whole, inasmuch as failure to satisfy any state requirement for offer of any degree constitutes failure to satisfy all requirements applicable to the school. Refusal by a school to discontinue any substandard offer or practice, regardless of the quality of any other offer or practice, will lead the commission to propose revocation or suspension of approval and/or civil or criminal action.

(6) A school whose degree authorization is revoked shall be considered for reinstatement only after one year and only when the Commission's Executive Director is satisfied that causes of the revocation have been entirely removed. Application for reinstatement from a school in revoked status shall comply with all requirements for a new applicant.

(7) A school whose degree authorization is suspended shall be considered for reinstatement only when the Commission's Executive Director is satisfied that causes of the suspension have been entirely removed. Application for reinstatement from a school in suspended status shall comply with all requirements for a renewing applicant.

(8) Grounds for revoking or suspending the degree authorization of a school include changes in state or federal law or judicial rulings affecting the status of a school or its failure to provide services it has guaranteed to students in writing; failure to supply records and other information to the Commission as directed; falsification of any information supplied to the commission, students, or the public; failure to comply with all applicable requirements of OAR chapter 583, division 30; and failure to prove to the satisfaction of the Commission's Executive Director on request compliance with any such requirement with respect to which the school's current performance is questioned specifically by the Commission as a result of routine monitoring or individual complaint.

(9) Revocation or suspension requires a school to immediately cease and desist from offering in or from Oregon any degree, instruction, or related services purporting to lead to a degree in whole or in part, except that the Commission at its discretion may permit a revoked or suspended school to complete an academic term already in progress on the date of the action. During such period of completion the school may not enroll new students, and it may not offer to those already enrolled any instruction or services purporting to lead to a degree that would be earned and conferred later than the immediate end of the term in progress. Completion of such term with good faith and fair dealing toward currently enrolled students or reasons for failure to so complete the term shall be factors in any subsequent consideration of a revoked or suspended school for reinstatement.

(10) A separate revocation process for schools exempted on religious grounds is listed in ORS 348.608.

(11) For schools that are part of a corporate entity, limited liability company, general partnership or similar organization, the Commission may extend the at risk, probation, suspension or revocation determination to all entities owned and controlled by the corporation, limited liability company, general partnership or similar organization in regards to their operations in Oregon. Furthermore, while on probation or suspension the Commission may opt to not review or approve any new programs or submittals from the institution, parent company or subsidiaries until all the deficiencies have been addressed to the satisfaction of the Commission.

(12) A school and program that has been placed on suspension shall not engage in any advertising, recruitment or student enrollment activities, or begin the instruction of any new students during the period of suspension. The school must notify enrolled students, employees and any prospective students in writing that the institution has been placed on suspension by the Commission. The school must also place notice of the suspension at the physical site of the school, if there is such, and on any website, social media or other official platform of the school. The notification to students, prospective students, and staff shall be immediate upon the school receiving the Commission's determination notice.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603, 348.606 & 348.612

Hist.: ECC 22, f. & ef. 12-22-75; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 1-2004, f. & cert. ef. 1-14-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0046**

**Fees and Expenses**

Effective January 13, 2015:

(1) Each application from a school seeking new or renewed authorization to confer or offer to confer a degree, or through instruction or related services to provide academic credit applicable to a degree, shall be accompanied by payment of a fee to the "Higher Education Coordinating Commission." There is no entitlement to refund of a paid fee under any circumstances. The fee is intended to recover the expenses of carrying out a review and providing services to a school during its period of authorization.

(2) The fees imposed by the Commission for reviewing applications seeking new or renewed authorization to confer or offer to confer a degree are based on the schedule established by the Legislative Assembly in ORS 348.606.

(c) Fee discounts.

(A) In reviewing simultaneous application for two or more degrees, the Commission, at its discretion, may reduce the fee for review of a degree that is closely related in type and content to one on the same level for which the full fee is paid. Such a reduction ordinarily depends on the provision of instruction by a single faculty for both degrees. Degrees on the same level using at least 50 percent of the same courses, taught by at least 50 percent of the same faculty, will be treated as one degree application for review and fee purposes.

(B) The Commission, at its discretion, may also reduce the fee when institution size, low faculty and administrative turnover, stability of ownership or board membership or other factors substantially reduce staff time required for evaluation and subsequent oversight and service. Such reductions are limited to 20 percent below the basic fee.

(C) The fee for religious-exempt schools may not exceed the lesser of the actual cost to the Commission of determining the school's compliance with the requirements for an exemption under ORS 348.604, and may not exceed $1,000.

(3) Application from a school for authorization to offer instruction or related services providing academic credit applicable to a degree offered only by another school or schools shall be accompanied by fees proportionate to those established in the paragraph immediately above. However, such fees may be discounted at the discretion of the Commission to reflect a program of reduced dimension if and only when the necessary review analysis is concomitantly reduced.

(4) When the Commission's Executive Director finds it necessary to pay an expert outside consultant for assistance in reviewing an application, or when it incurs other unusual expenses in the course of review, all costs thus incurred may be charged to the applicant school in addition to the basic fee.

Stat. Auth.: ORS 183 & 348
Stats. Implemented: ORS 348
Hist.: ECC 1-1982(Temp), f. & ef. 3-12-82; ECC 2-1982, f. & ef. 9-8-82; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2000, f. & cert. ef. 2-29-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0049**
**Criminal and Civil Penalties**

Effective January 13, 2015:

(1) Without authorization from the Commission as provided in this rule, any offer of a degree or of services purporting to lead to a degree in whole or in part is a Class B misdemeanor under ORS 348.992. Complaints may be brought to a prosecutor against any person acting individually or on behalf of an organization or group.

(2) Without authorization from the Commission as provided in this rule, any offer of a degree or of services purporting to lead to a degree in whole or in part may be a violation of Oregon's Unlawful Trade Practices Act (UTPA), ORS 646.605 to 646.652. The commission may in addition request injunctive relief or a civil penalty against violators. Complaints may be brought to the Oregon Department of Justice against any person acting individually or in concert with others. .

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.606 & 348.992
Hist.: EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0051**
**Surety Bonds Generally**

Effective September 10, 2015:

(1) A properly executed surety bond shall:

(a) Be with a corporate surety licensed to do business in Oregon;

(b) Be signed by an authorized agent of the surety or one having power of attorney;

(c) Bear a bond number;

(d) Be filed within the time stated on the bond, with the Commission and retained by the Commission;

(e) Be executed to the State of Oregon;

(f) Be in a form approved by the Attorney General as posted on the Commission's website.

(2) Bond documents received at the Commission office from a surety company or agent via electronic facsimile or as a PDF file transmitted by email or otherwise electronically may be accepted as original documents. The surety must provide the original bond document to the agency upon request. The surety shall submit the documents directly to the Commission on or before September 1 of each year commencing 2016, however, for the school year 2015-2016, the documents shall be provided within 90 days of the date of the promulgation of these rules.

Stat. Auth.: ORS 348.080 - 348.612
Stats. Implemented: SB 218 (2015), HB 3516 (2015), HB 2870 (2015)
Hist.: ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0052**
**Letters of Credit Generally**

Effective September 10, 2015:

(1) A Letter of Credit shall be in a form approved by the Attorney General as posted on the Commission's website.

(2) A Letter of Credit shall be an irrevocable Letter of Credit issued by an insured institution as defined in ORS 706.008 or, in the case of an out of state public institution, a Letter of Credit can be issued by the authorizing agency of the school.

(3) A Letter of Credit received at the Commission office from an insured institution or authorizing agency via electronic facsimile or as a PDF file transmitted by email or otherwise electronically may be accepted as original documents. The bank or financial institution or authorizing agency must provide the original document to the agency upon request. The bank or financial institution or authorizing agency shall submit the documents directly to the Commission on or before September 1 of each year commencing 2016, however, for the school year 2015-2016, the documents shall be provided within 90 days of the date of the promulgation of these rules.

Stat. Auth.: ORS 348.080 - 348.612
Stats. Implemented: SB 218 (2015), HB 3516 (2015), HB 2870 (2015)
Hist.: ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0053**
**Entity Name Required on Bond or Letter of Credit**

Effective September 10, 2015:

(1) The name of the entity as it appears on the bond or letter of credit must be the same as the name on the application and entity name filed at the Oregon Corporation Division (if applicable).

(a) If the entity is a sole proprietorship, the bond or letter of credit must include the name of the sole proprietor;

(b) If the entity is a partnership, limited partnership or joint venture, the bond or letter of credit must include the names of all partners and any other business names used;

(c) If the entity is a limited liability partnership or limited liability company, the bond or letter of credit must be issued in the name of all partners and the name of the limited liability partnership;

(e) If the entity is a corporation or trust, the bond or letter of credit must be issued showing the corporate or trust name; or

(2) If at any time an entity amends its entity name, the Commission must be notified within 30 days of the date of the change.

(3) The inclusion or exclusion of business name(s) on a bond or letter of credit does not limit the liability of an entity. Complaints against a licensed school will be processed regardless of business names used by an entity.

Stat. Auth.: ORS 348.080 - 348.612
Stats. Implemented: SB 218 (2015), HB 3516 (2015), HB 2870 (2015)
Hist.: ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0054**
**Cancellation of Bond or Letter of Credit by Surety or Institution**

Effective September 10, 2015: The corporate surety for a bond obtained pursuant to this section, or the insured institution for a Letter of Credit obtained pursuant to this section, must notify the Commission if the bond or letter of credit is canceled for any reason. Except as provided in subsection (6) of this section, the surety or institution is liable under the bond or letter of credit until the latest of the following dates:

(1) The date specified in the notice to the Commission that the bond or letter of credit is canceled;

(2) The 30th business day after the date the surety or institution mails the notice to the Commission that the bond or letter of credit is canceled; or

(3) The date on which the Commission receives the notice from the surety or institution that the bond or letter of credit is canceled.

Stat. Auth.: ORS 348.080 - 348.612
Stats. Implemented: SB 218 (2015), HB 3516 (2015), HB 2870 (2015)
Hist.: ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-030-0056**
**Bond and Letter of Credit Amounts; Amount Reductions**

Effective September 10, 2015:

(1) Unless otherwise provided in sections (2) or (3), or as provided in OAR 583-030-0035(17)(c), a surety bond shall be in an amount, equal to the rolling annual average of prepaid tuition.

(a) For a school that has operated in Oregon for one year or more, the rolling annual average of prepaid tuition is defined as half of the average of unearned tuition at the start of each term when tuition is due. Schools shall average the unearned tuition at the beginning of each semester or quarter for the prior year for which academic credit hours were awarded and/or authorized, and divide by two. At the discretion of the Commission the tuition income of non-Oregon based enrolled students may be part of the calculation of the rolling average. "Unearned tuition" is as is described in OAR 583-030-0035(18)(a).

(b) For a school that has operated in Oregon for less than one year, the rolling annual average of prepaid tuition will be a reasonable amount established at the director's discretion based on the school's financial projections

and estimate of the rolling average of Oregon enrollment and tuition income during the first year of operation, or $25,000 whichever is greater. At the discretion of the Commission, the tuition income of non-Oregon based enrolled students may be part of the calculation of the rolling average.

(c) For a non-Oregon publicly owned school, the rolling annual average of prepaid tuition is the gross tuition income received from all Oregon enrolled students from the previous year divided by four, or $25,000 whichever is less. At the discretion of the Commission, the tuition income of non-Oregon based enrolled students may be part of the calculation of the rolling average.

(2) Notwithstanding section (1), a school may obtain a bond or letter of credit in an amount less than its rolling annual average of prepaid tuition upon the approval of the Commission. Eligibility for a reduced bond or letter of credit is as follows:

(a) A school may receive a reduction in the amount of its bond or letter of credit up to 50 percent of its rolling annual average of prepaid tuition if it demonstrates to the Commission's satisfaction that it:

(A) Has received a United States Department of Education, Federal Financial Aid, financial responsibility composite score of 1.5 or greater for the last two consecutive years;

(B) Has not been sanctioned in the last two years, is not at risk, probation, suspension or revocation by the Commission or its institutional accreditor;

(C) Is not under investigation by the United States Department of Education or any other federal agency for a violation that could result in loss of Title IV aid privileges and does not otherwise have any restrictions or warning pertaining to its eligibility for federal programs;

(D) Is not under review for potential probation, suspension or revocation of its operational or degree-granting authority by any state; or

(E) It has an Oregon campus that does not participate in Federal Financial Aid, and meets the requirements set forth above in OAR 583-030-0056(2)(a)(A) through OAR 583-030-0056(2)(a)(D). The school has established a stable operation for the last two years, and demonstrates in its financial planning and audited financial statements that it has dedicated cash reserves for refunds, and demonstrates the capacity to refund unearned tuition.

(b) A school may receive a reduction in the amount of its bond or letter of credit up to 75 percent of its rolling annual average of prepaid tuition if it demonstrates to the Commission's satisfaction that it:

(A) Has received a United States Department of Education, Federal Financial Aid, financial responsibility composite score of 1.5 or greater for the last five consecutive years;

(B) Has not been sanctioned in the last five years, is not at risk, probation, suspension or revocation by the Commission or its institutional accreditor;

(C) Is not under investigation by the United States Department of Education or any other federal agency for a violation that could result in loss of Title IV aid privileges and does not otherwise have any restrictions or warning pertaining to its eligibility for federal programs;

(D) Is not under review for potential probation, suspension or revocation of its operational or degree-granting authority by any state; or

(E) It has an Oregon campus that does not participate in Federal Financial Aid, and meets the requirements set forth above in OAR 583-030-0056(2)(b)(A) through OAR 583-030-0056(2)(b)(D). The school has established a stable operation for the last five years, and demonstrates in its financial planning and audited financial statements that it has dedicated cash reserves for refunds, and demonstrates the capacity to refund unearned tuition.

(3) Publically owned institutions located outside of this state are required to issue a letter of credit or surety bond. The letter of credit can be issued by the authorizing agency in the state where the school is located, guaranteeing that the state of origin shall provide any refunds or other financial compensation required by Oregon law in the event that the institution cannot or declines to do so.

(4) Commencing 2016, a school approved by the Commission to confer any academic degree under ORS 348.606 must obtain a surety bond or letter of credit on an annual basis on or before September 1. However for the school year 2015-2016, the documents shall be provided within 90 days of the date of the promulgation of these rules.

Stat. Auth.: ORS 348.080 - 348.612
Stats. Implemented: SB 218 (2015), HB 3516 (2015), HB 2870 (2015)
Hist.: ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0006**
**Purpose and Scope**

Effective January 13, 2015:

(1) This rule implements Oregon Revised Statutes (ORS) 348.594 to 348.615 and 348.992 insofar as each section therein relates to ORS 348.609, intended to protect postsecondary institutions, businesses and other employers, professional licensing boards, patients and clients of degree holders, and all citizens from any person claiming to possess a valid academic degree that in fact was issued by a fraudulent or nonexistent school, by a non-educational entity posing as a school, by a nonstandard school without the use of a disclaimer, or by any entity in violation of applicable statutes or administrative rules.

(2) In order to be valid in Oregon as a public credential usable for general academic or professional purposes, under ORS 348.609 a claimed degree must have been awarded by a school that:

(a) Has accreditation recognized by the U.S. Department of Education or has the foreign equivalent of such accreditation; or

(b) Has been approved through the Higher Education Coordinating Commission (Commission) to offer and confer degrees in Oregon; or

(c) Is located in the United States and has been found by the Commission acting through the commission to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation, recognized by the U.S. Department of Education, to offer degrees of the type and level claimed by the person; or

(d) Is an Oregon school that has achieved exemption from state oversight on religious grounds; or

(e) If unaccredited, has the legal authority from a U.S. state or foreign country to issue degrees usable as educational credentials in the jurisdiction of issue.

(3) This rule applies to any claim to possess an academic degree made by any person acting within the state, acting outside the state while domiciled within the state, or acting outside the state on behalf of an organization that is located within the state.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0011**
**Definitions of Terms**

Effective January 13, 2015:

(1) "Academic Standards" means those standards in 583-030-0035 or the equivalent standards of an accrediting body that relate to admission requirements, length of program, content of curriculum, award of credit and faculty qualifications.

(2) "Accredited" means accredited and approved to offer degrees at the specified level by an agency or association recognized as an accreditor by the U.S. Secretary of Education, under the 1965 Higher Education Act as amended at the time of recognition, or having candidacy status with such an accrediting agency or association whose pre-accreditation is also recognized specifically for HEA purposes by the Secretary of Education.

(3) "Claim a degree" means to present orally, or in writing or in electronic form any symbol or series of letters or words that would lead the listener or reader to believe a degree had been received and is possessed by the person speaking or writing, for purposes related to employment, application for employment, professional advancement, qualification for public office, teaching, offering professional services or any other use as a public credential, whether or not such use results in monetary gain.

(4) "College level work" required for a degree means academic or technical work at a level demonstrably higher than that required in the final year of high school and demonstrably higher than work required for degrees at a lower level than the degree in question. From lowest to highest, degree levels are associate, bachelor's, master's and doctoral. Professional degree levels may vary. College level work is characterized by analysis, synthesis and application in which students demonstrate an integration of knowledge, skills and critical thinking. Awards of credit for achieving appropriate scores on Commission-approved nationally normed college-level examinations such as those from College Level Examination Program, American Council on Education, Advanced Placement or New York Regents meets this standard.

(5)(a) "Degree" means any earned or honorary title, rank, or status designated by a symbol or by a series of letters or words-such as, but not limited to, associate, bachelor, master, doctor, and forms or abbreviations thereof, that signifies, purports, or may generally be taken to signify:

(A) Completion of a course of instruction at the college or university level;

(B) Demonstration of achievement or proficiency comparable to such completion; or

(C) Recognition for non-academic learning, public service, or other reason of distinction comparable to such completion.

(b) "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to the public so as to prevent such confusion or error.

(6) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe it was a degree that had been received.

(7) "Diploma mill" or "degree mill" means an entity that meets any one of the following conditions as defined in ORS 348.594:

(a) A school against which a court or public body, as defined in ORS 174.109, has issued a ruling or finding, after due process procedures, that the school has engaged in dishonest, fraudulent or deceptive practices related to the award of degrees, academic standards or student learning requirements; or

(b) Is an entity without legal authority as a school to issue degrees valid as credentials in the jurisdiction that authorizes issuance of degrees.

(8) "Disclaimer" when appended to a published reference to a degree means the following statement from statute: "(Name of school) does not have accreditation recognized by the United States Department of Education and has not been approved by the Higher Education Coordinating Commission."

(9) "Earned degree" means a degree awarded based on academic work evaluated and accepted by qualified faculty in the context of a specific degree program, based on the Carnegie credit system as set forth in OAR 583-030-0035(5) or an equivalent as determined by the commission's executive director.

(10) "Foreign equivalent of such accreditation" means authorization by a non-U.S. government found by the commission's executive director to have adequate academic standards. This determination may be made through one or more of the following methods at executive director's discretion:

(a) Direct investigation of foreign standards;

(b) Reliance on an evaluation and determination made by the American Association of Collegiate Registrars and Admissions Officers (AACRAO); or

(c) Evaluation of the transferability of courses and degrees earned in the foreign country to accredited Oregon institutions at similar degree levels.

(11) "Honorary Degree" means a credential awarded by an accredited or approved school in recognition of the recipient's personal merits unrelated to academic achievement demonstrated through course work or equivalent work taken at the awarding school.

(12) "Nonstandard School" means a degree provider that has legal authority to issue degrees valid in its authorizing jurisdiction, but which does not meet the requirements to be a standard school.

(13) "School" includes a person, organization, school or institution of learning that confers or offers to confer an academic degree upon a person or to provide academic credit applicable to a degree. The activities attributable to a school include instruction, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(14) "Standard School" means a school that meets the requirements of ORS 348.609 for degree use without a disclaimer.

(15) "Valid degree" means a degree issued by a standard school or by a nonstandard school if the disclaimer required by ORS 348.609(2) is used.

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

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.603 & 348.609

Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 3-2000, f. & cert. ef. 8-8-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2005, f. & cert. ef. 3-3-05; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-06, f. & cert. ef. 6-23-06; ODA 1-2008, f. & cert. ef. 2-7-08; ODA 3-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0014**
**Unaccredited Degrees**

Effective January 13, 2015:

(1) Users of unaccredited degrees may use the degrees in the following ways.

(a) Unaccredited degrees that have achieved approval under ORS 348.609(1)(d) can be used without a disclaimer.

(b) Unaccredited degrees that have not achieved approval under ORS 348.609(1)(d) can only be used with a disclaimer.

(c) Degrees issued by degree mills are invalid for use, with or without a disclaimer.

(2) Process for approval under ORS 348.609(1)(d). A claimant of an unaccredited U.S. degree may submit to the Commission information indicating that the school conferring the degree has the legal authority to issue degrees in another state and could reasonably be considered for approval in Oregon under OAR chapter 583, division 30.

(a) A reasonable possibility of approval can be demonstrated by submitting to the Commission the appropriate review fee and sufficient evidence that the unaccredited institution could meet the academic standards established in OAR chapter 583, division 30 for authorization to operate in Oregon if it chose to make such an application.

(b) The Commission may, upon its own motion, evaluate an unaccredited institution and determine whether it has a reasonable chance to meet Oregon authorization standards without a degree user making such a request.

(c) If a request for evaluation under this section is not made tothe Commission's executive director within 30 days of notification that an unaccredited degree is being used contrary to Oregon law, the degree user's right to such a review is waived and the commission may pursue appropriate enforcement action. Degree users may, within the first 30 days, request up to 30 additional days for the purpose of gathering material necessary to apply for an evaluation.

(3) A claimant of a non-U.S. degree issued by a degree supplier not accredited by a U.S. accreditor may submit to the commission information proving that the supplier issuing the degree has the following characteristics.

(a) The supplier is operating legally as a degree-granting institution in its host country.

(b) The host country has a postsecondary approval system equivalent to U.S. accreditation in that it applies qualitative measures by a neutral external party recognized in that role by the government.

(c) The supplier has been approved through the demonstrable application of appropriate standards by the host country's accreditor equivalent.

(d) All degrees issued by the supplier are legally valid for use and professional licensure within the host country.

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.609

Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 4-2004, f. & cert. ef. 5-14-04; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; Renumbered from 583-050-0031, ODA 4-2005, f. & cert. ef. 10-18-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0016**
**Validation of a Secular Degree**

Effective January 13, 2015:

(1) Any person claiming in Oregon to possess an academic degree shall, upon request from the Commission's Executive Director, have an official transcript of the degree sent directly to the Commission from the registrar or other appropriate official of the conferring school.

(2) Where validation of a degree by telephone or electronic means seems readily obtainable from a school, the Commission at its discretion may postpone with option of waiver the requirement for a transcript upon receiving from the degree claimant the name, address, and telephone number of the conferring school. Requirement of one or more transcripts may be reinstated at any time if other methods of validation are not sufficient for a conclusive determination.

(3) Upon receipt of evidence of a valid degree, the executive director shall inform the degree claimant that a validation has been entered into the record, which shall specify any title and abbreviation that may be used to claim the degree.

(4) Honorary degrees must be distinguished from earned degrees.

(a) Any person claiming in Oregon to hold an honorary degree must label any written use of the degree using the word "honorary" or the abbreviation "hon." in order to make the public aware that the degree is not an earned credential. Any oral reference to the degree must be accompanied by a reasonable effort to ensure that listeners are made aware that it is honorary.

(b) Any person using an honorary doctorate may not use the title "Doctor" or "Dr." unless the word "honorary" or the abbreviation "hon." accompanies the claim in a clear and visible form, or is stated orally when an honorary doctorate is used as the basis for an oral use of the title.

(c) An honorary degree may not be used as a credential for employment in Oregon.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 3-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0026**
**Invalidation of a Degree, Warning, Enforcement**

Effective September 10, 2015:

(1) Once the Commission determines a claimed degree is invalid or nonstandard, a person is presumed to not have knowledge of the invalidity, so as to reflect consideration for the possibility that the person was misled by the purported school or unaware of Oregon degree requirements. This presumption may be overcome by clear and convincing evidence.

(2) Failure to provide when requested a transcript or other information needed for validation of a degree is prima facie evidence under statute that the claim to such degree is invalid.

(3) Upon the failure or inability to produce conclusive evidence of a valid degree, the Commission shall notify the claimant in writing that a warning is issued and that the claimant must immediately cease and desist from making the invalidated claim.

(4) Prior to the imposition of any penalty listed in subsection (5) of this rule, a person whose degree is found invalid, or the use of whose degree may be restricted, is entitled to a hearing in accordance with ORS chapter 183. Hearings will be provided in the following way:

(a) The Commission's initial communication with a degree user will be an inquiry letter that will give the user 30 days from the date of the letter in which to address any issues regarding degree existence, validity and restriction. No hearing is provided at this stage;

(b) If a degree user contacted by the Commission under paragraph (a) of this subsection does not respond within 30 days, or provides information that is insufficient to allow unrestricted degree use while expressing intent to continue using the degree, the Commission will issue a cease and desist letter to the user, setting forth the requirements of law and how the user's degree fails to meet those requirements. This letter will also be sent to the user's attorney, if any. The user will be given 30 days to respond, agreeing to either comply with the law or request a hearing to contest the Commission's findings:

(A) If the user agrees to comply with the law within 30 days of the date of the letter, the Commission will provide the user with a standard form upon which such agreement can be stated and signed. No penalty will be imposed provided that the user carries out the agreement;

(B) If the user does not respond within the 30 days, the Commission will proceed with a default hearing and may request the assessment of civil penalties.;

(C) If the user requests a hearing within 21 days, the hearing will be conducted by an Administrative Law Judge as provided in ORS 183.335.

(c) If a hearing is held, the Administrative Law Judge will recommend a resolution to the Commission, which will decide whether the degree use meets Oregon standards, and if it does not, whether to impose a penalty and, if so, what the penalty should be.

(5) Subsequent to such warning and in violation thereof, any renewed claim of an invalid degree exposes the violator to penalties as set forth in statute and under subsection (6) of this rule.

(6) Any violation of ORS 348.603 or 348.609 may result in any or all of the following sanctions:

(a) Prosecution for a Class B misdemeanor under ORS 348.992;

(b) Injunction against further use of the claimed degree;

(c) Civil suit for violation of Oregon's Unlawful Trade Practices Act (UTPA), ORS 646.605 to 646.652, if applicable; or

(d) A civil penalty not to exceed $1,000 per violation.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603, 348.609 & 348.992
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 2-2002, f. & cert. ef. 10-10-02; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 2-2006, f. & cert. ef. 11-1-06; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0027**
**Disciplinary Action; Civil Penalty Considerations**

Effective January 13, 2015:

(1) The Commission may assess a civil penalty for each violation of a provision of OAR chapter 583, division 50.

(2) In establishing the amount of the penalty for each violation, the Commission shall consider, but not be limited to the following factors:

(a) The gravity and magnitude of the violation;

(b) The person's previous record of compliance with the provisions of ORS 348.594 to 348.615 or with the rules adopted thereunder;

(c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and

(d) Such other considerations as the Commission may consider appropriate.

(3) An "incident" for purposes of the penalty schedule means a single use of the invalid degree, or each use of an unaccredited degree without a disclaimer, in a specific venue in a specific time period.

(a) Examples of specific venues include but are not limited to publications, job applications, web sites, spoken presentations, mailings, emails, flyers, posters, advertisements, and handouts.

(b) Examples of specific time periods include one-time uses and serial uses, e.g., monthly advertisements, annual publications such as college catalogs and the like. In the case of continued usage during a period of employment, each regular pay period (e.g. one month) in which the degree is used is considered a specific time period and therefore a separate incident.

(4) The Commission may impose a civil penalty, provided that it first gives the person an opportunity for a hearing as outlined in ORS Chapter 183.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.609
Hist.: ODA 2-2002, f. & cert. ef. 10-10-02; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0028**
**Schedule of Civil Penalties for Violations of Laws and Rules**

Effective January 13, 2015. In assessing civil penalties, the Commission desires to be both consistent and equitable and to consider and evaluate each case on an individual basis. The actual civil penalty which the commission imposes shall be based on the Commission's consideration of the factors in OAR 583-050-0027. The Commission shall impose a penalty per incident based on only one of the degree use activities listed below, i.e. a single incident cannot result in a penalty from more than one category. Civil penalties shall be imposed according to the following schedule for use after warning by the commission of a violation:

(1) When such use is related to a position in any employment sector, paid or unpaid, involving public health or safety for which a degree of the type found invalid is required for employment or licensure: $1000 per incident.

(2) When such use is intended to induce or encourage payment of money by students, clients, customers or others for whom the degree may serve as an attractant or legitimizer related to a service provided in the business or not-for-profit sector: $1000 per incident.

(3) When such use is in public employment not related to public health or safety for which a valid degree of the type claimed is required or is necessary based on the conditions of employment: $500 per incident.

(4) By a teacher at any level, including K–12 and postsecondary education: $500 per incident.

(5) When such use is likely to deceive the public as to the user's qualifications but no money is sought or received by the user as a consequence in whole or in part of the use: $300 per incident.

(6) When in violation of any other provision of OAR 583, division 50: $300 per incident.

(7) Repeated violations of any kind may result in a penalty of $1,000 for each repetition occurring after a penalty is imposed by the Commission or an injunction against the usage is issued by a court.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.609
Hist.: ODA 2-2002, f. & cert. ef. 10-10-02; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0036**
**Inquiries and Complaints**

Effective January 13, 2015:

(1) Monitoring and validating degree claims will be done by the Commission in the course of routine activities such as approving faculty members of schools seeking authorization to offer degrees in Oregon, advising employers or professional licensing boards on applicant credentials, examining backgrounds listed by candidates for public election, and reviewing telephone directories or other publications for advertisements that list degrees.

(2) Any citizen as a matter of general information may ask the Commission to discuss whether a degree encountered sounds questionable, and any citizen as a matter of public protection may ask the Commission to

validate a degree claimed by an identified individual. It is entirely optional for an inquirer unsure about a degree to make a formal complaint, because an inquiry alone does not imply that the inquiring citizen has accused the degree claimant of any deception.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

**583-050-0040**
**Fees for Validation Services**

Effective January 13, 2015

(1) ODA charges a fee for some services provided under OAR chapter 583, division 50. The fee schedule is as follows: [Table not included. See ED. NOTE.]

(a) Agencies or organizations that have contracted for basic degree validation services with the Commission do not pay a per-request fee. Contract rates are as follows: [Table not included. See ED. NOTE.]

(b) Fees for all inquiries, including contracted rates, must be paid in advance by bank check, money order or interagency fund transfer to: State of Oregon - Higher Education Coordinating Commission (use current address).

(2) The Commission may require reimbursement of costs for other requests at the discretion of the agency, depending on the nature of the request and available staff resources. Such fees may not exceed the actual cost to the Commission to provide the service, based on staff rates and related costs.

(3) The Commission's executive director may waive validation and evaluation fees:

(a) If the request for information is for purposes of criminal investigation; or

(b) If the consumer protection benefits of ODA action warrant a waiver, provided that sufficient staff time is available.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15; ODA 2-2015(Temp), f. & cert. ef. 9-10-15 thru 3-7-16

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## Landscape Architect Board
## Chapter 804

**Rule Caption:** Public Records Requests, Required Application Information, Inactive and Inactive Emeritus Status, Late Renewal and Reinstatement
**Adm. Order No.:** LAB 2-2015
**Filed with Sec. of State:** 8-17-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 804-022-0030
**Rules Amended:** 804-001-0020, 804-022-0020, 804-022-0025, 804-040-0000
**Subject:** For 804-001-0020: This rule was updated to ensure full compliance with the requirements of the Oregon Public Records Law. The rule now provided clear information on process and fees. The Board will be better able to ensure that it can recover the cost of responding to public records requests while also authorizing staff to provide public records without charge in some instances.

For 804-022-0020: This rule was updated to provide greater clarity about how registration can be renewed when renewal is not completed timely. The current requirements for reinstatement (i.e., when renewal is not completed within 60 days of the renewal deadline) have been reduced, thereby making the process potential easier for registrants. The rule also now addresses delegation of decision-making authority.

For 804-022-0025 and 804-040-0000: Rule 804-022-0025 has been expanded to address inactive status in addition to emeritus inactive status and was updated to provide greater clarity about how an individual is placed on or removed from an inactive or inactive emeritus status. The Board removed one of the qualifying criteria for inactive emeritus status thereby expanding the availability of this status to more registrants. The rule also now addresses delegation of decision-making authority. The Board also added in rule 804-040-0000 a new annual administrative fee for an individual on inactive status. An annual

administrative fee was previously in place for inactive emeritus status, and the administrative work associated with maintaining registration records is the same for these status types.

For 804-022-0030: This new rule provides clarity to prospective applicants and registrants

regarding the legal basis for the Board requirement for Social Security Numbers. The rule provides explanation of the requirement at a time when individuals are increasingly concerned about providing Social Security Numbers due to identify theft.
**Rules Coordinator:** Christine Valentine—(503) 589-0093

**804-001-0020**
**Public Records Requests**

(1) All requests for copies of public records in the custody of the Oregon State Landscape Architect Board (Board) shall be made in writing to the Board Administrator. Written requests may be delivered in person, by mail, by fax or by email. All requests are subject to disclosure according to the Public Records Law.

(2) A public records request may be submitted on a request form provided by the Board. If the form is not used, the requestor must include the following information in the request:

(a) The name and address of the person requesting the public record;

(b) The telephone number, email address, and other relevant contact information for the person requesting the public record;

(c) A sufficiently detailed description of the records requested to allow the Board to search for and identify the responsive records;

(d) The date the request is submitted to the Board;

(e) Statement as to whether the person making the request wants to inspect any responsive, non-exempt records at the Board office or to receive copies of the records, and

(f) Signature of the person making the request if the request is not made by email.

(3) A reasonable period of time shall be allowed for the staff to locate and assemble the non- exempt public records responsive to the request. The regular discharge of duties of the Board will neither be interrupted nor substantially interfered with because of time and effort required to respond to the request.

(4) The Board charges fees for responding to public records requests which are reasonably calculated to cover costs of the response and records provided. Fees are designed to cover the cost of locating, reviewing, compiling, making available for inspection, preparing copies, and delivering the response and public records. Fees are as follows:

(a) Twenty-five (25) cents per page for photocopies, where a double-sided copy equals two (2) pages;

(b) One (1) dollar for the first page faxed and fifty (50) cents for each additional page, limited to a 20-page maximum, not including the cover page;

(c) At the Board Administrator's discretion, copies of public records may be provided electronically if stored in the Board's computer system. Electronic records may be provided by email or by other means as deemed appropriate by the Board Administrator. Due to the potential threat of computer viruses, the agency will not permit requestors to provide disks, USB drives, or other electronic devices for reproduction of electronic records;

(A) The cost of records transmitted by email is five (5) dollars per email, except when (6) of this rule applies, and may contain as much information as the Board email system will handle per email.

(B) The cost of records transmitted by other electronic means is five (5) dollars per device and may contain as much information as the electronic device will hold.

(d) Estimated cost for delivery of records such as postage and courier fees; and

(e) Labor charges that include researching, locating, reviewing, compiling, editing and otherwise processing information and records responsive to the request:

(A) No charge for the first fifteen (15) minutes of staff time;

(B) After the first fifteen (15) minutes, the staff labor rate is twenty-five (25) dollars per hour, with a six dollars twenty-five cents (6.25) minimum;

(C) Actual attorney and other legal fees and costs charged to the Board for review of the request, records, redacting confidential materials from the public records, segregating the public records into exempt and nonexempt records, and response.

(f) If fees are estimated to be more than twenty-five (25) dollars, the requestor will be provided a written cost estimate by Board staff before the Board responds to the request. The requestor must then confirm to the Board in writing that the requestor wants the Board to proceed with making the records available and understands the estimated fees. The Board will not take further action on the request prior to receiving such confirmation from the requestor.

(5) Fees for public records requests must be paid as follows:

(a) Before the requested public records will be made available for inspection or copies provided. The Board Administrator may require prepayment of estimated fees before taking further action on a request.

(b) By check, money order, or any credit card accepted by the Board office.

(c) If payment is rejected by the bank or credit card company, the requesting party will be notified and be responsible for any charges incurred by the Board as a result of the rejected payment. This is in addition to the fees for response to the request.

(6) The Board Administrator may waive or reduce fees for:

(a) Responses to requests that can be provided with less than 15 minutes of staff time and in electronic format via email delivery; or

(b) Responses to requests that the Board Administrator determines are in the public interest because making the public records available primarily benefit the general public or Board registrants.

Stat. Auth. ORS 192.430, 192.440, 192.502, 192.505, 182.466, 670.310
Stat. Implemented. ORS 192.430, 192.440, 192.502, 192.505
Hist.: LAB 1-1984, f. & ef. 1-5-84; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 1-1998, f. & cert. ef. 2-5-98; LAB 2-2015, f. 8-17-15, cert. ef. 9-1-15

**804-022-0020**
**Late Renewal and Reinstatement of Delinquent Registration**

(1) A registration is delinquent (lapsed) if the registrant has not completed the requirements for renewal by or before the renewal due date.

(2) A registrant with a delinquent (lapsed) registration is not authorized to practice landscape architecture or use the title Registered Landscape Architect or variations thereof in Oregon.

(3) A registrant with delinquent (lapsed) registration has the following options for obtaining an active registration with the Board:

(a) If registration is not renewed or reinstated within five (5) years of the last renewal due date, then the registration expires. The individual cannot renew an expired registration but can apply for a new registration subject to current Board registration requirements.

(b) If the registrant takes action to renew within five (5) years of the last renewal due date, then the renewal is subject to the requirements of (4) or (5) of this rule based on the date the renewal requirements are fulfilled.

(4) If a registrant fails to renew a registration by the renewal date but completes the renewal requirements within sixty (60) days of the renewal due date, the following apply:

(a) No late fee is required if the renewal is completed not later than thirty (30) days after the renewal date; or

(b) A late fee is required if the renewal is completed more than thirty (30) days but not later than sixty (60) days after the renewal date.

(5) Reinstatement is required if the renewal is completed more than sixty (60) days after the renewal date but within five (5) years of the last renewal due date (i.e., the reinstatement period). Individuals seeking renewal of registration within the reinstatement period must complete the requirements for renewal and the following additional reinstatement requirements:

(a) Submit a written request for reinstatement to the Board explaining why the registration renewal was late;

(b) Submit documentation of continuing education completion as required in OAR 804-025-0015(3) and pass a continuing education audit; and

(c) Pay all fees required by the Board (i.e. renewal fee and late fee for each year registration was delinquent (lapsed)).

(6) The Board delegates to the Board Administrator the authority to renew delinquent (lapsed) registrations per (4) of this rule.

(7) The Board delegates to the Continuing Education Coordinator the authority to approve continuing education audits for purposes of reinstatement of delinquent (lapsed) registrations under (5) of this rule. Documentation of audit completion will be filed in the Board office.

(8) The Board delegates to the Administrator the authority to grant reinstatement of registration under (5) of this rule upon confirmation that all necessary requirements have been met.

Stat. Auth.: ORS 671.415
Stats. Implemented: ORS 671.376
Hist.: LAB 2-1982, f. & ef. 6-24-82; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1986, f. & ef. 3-5-86; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 2-1998, f. & cert. ef. 4-22-98; Renumbered from 804-030-0035, LAB 1-2008, f. & cert. ef. 2-4-08; LAB 2-2010, f. & cert. ef. 10-19-10; LAB 2-2015, f. 8-17-15, cert. ef. 9-1-15

**804-022-0025**
**Inactive and Inactive Emeritus Status**

(1) The Board has two types of inactive status as described in this rule.

(2) The Board shall grant Inactive status to any Registered Landscape Architect who while in good standing as defined in 804-003-0000(11) submits:

(a) A written request to the Board by or before the registration renewal date; and

(b) A signed statement of non-practice on a form provided by the Board.

(3) The Board shall grant Inactive Emeritus status to any Registered Landscape Architect who while in good standing as defined in 804-003-0000(11) submits:

(a) A written request to the Board by or before the registration renewal date;

(b) A signed statement of non-practice on a form provided by the Board; and

(c) Validation of twenty-five (25) consecutive years of registration as a Landscape Architect.

(4) A registrant on Inactive or Inactive Emeritus status cannot practice landscape architecture in Oregon. A registrant on Inactive status may not use the Registered Landscape Architect title or any similar title in Oregon. A registrant on Inactive Emeritus status may use the title Registered Landscape Architect, Emeritus or any similar title indicating the Emeritus or Retired status in Oregon.

(5) A registrant on Inactive or Inactive Emeritus status must submit an annual registration fee to cover the Board's administrative cost of maintaining a registration record.

(6) Per ORS 671.376(4), a registrant can remain on Inactive or Inactive Emeritus status for a period of five (5) years. The five (5) year period is counted forward from the last renewal due date. At the end of the five (5) year period, the registration expires and cannot be renewed, but the individual can apply for a new registration subject to current Board registration requirements.

(7) If a registrant on Inactive or Inactive Emeritus status wishes to resume practicing within the five (5) year period described in (5) of this rule, the registrant can request a return to Active status as follows:

(a) Submit a written request asking to return to Active status;

(b) Submit the current year's renewal fee; and

(c)(A) Complete the continuing education requirements for reactivation of registration found at 804-025-0015 as verified by an audit, except:

(B) A Landscape Architect in Training on Inactive status is not subject to continuing education requirements.

(8) The Board delegates to the Administrator the authority to grant Inactive and Inactive Emeritus status upon verification that the requirements of (2) or (3), whichever is applicable, have been met.

(9) The Board delegates to the Continuing Education Coordinator the authority to approve continuing education audits for purposes of return to Active status under (7) of this rule. Documentation of audit completion will be filed in the Board office.

(10) The Board delegates to the Administrator the authority to grant return to Active status upon confirmation that the audit and all other requirements for return to Active practice have been met.

Stat. Auth.: ORS 671.376(4); ORS 671.415; ORS 671.310
Stats. Implemented: ORS 671.325, 671.335, 671.365, 671.415
Hist.: LAB 2-2009, f. & cert. ef. 12-11-09; LAB 2-2015, f. 8-17-15, cert. ef. 9-1-15

**804-022-0030**
**Required Application Information**

(1) The Oregon State Landscape Architect Board (Board) will not issue or renew any individual registration unless an applicant or registrant provides his or her Social Security Number on the application or renewal form.

(a) A registrant need not provide the Social Security Number on the renewal form if the Social Security Number has been previously provided to the Board and is in the record.

(b) An applicant need not provide the Social Security number on a subsequent application if the Social Security Number has been previously provided to the Board and remains in the record.

(2) If an individual has not been issued a Social Security Number by the United States Social Security Administration, the Board will accept a written statement from the applicant to fulfill the requirements of OAR 809-050-0050(1) and this rule. The individual may, but is not required to,

submit the written statement on a form provided by the Board. Any written statement submitted must:

(a) Be signed by the individual;

(b) Attest to the fact that no Social Security Number has been issued to the individual by the United States Social Security Administration;

(c) Assert that the information provided about the Social Security Number is true and correct; and

(d) Acknowledge that knowingly supplying false information under this section is as crime.

(3) Individuals must provide Social Security Numbers as required by ORS 25.785, 305.385, 42 USC § 666(a)(13), and 42 USC § 405(c)(2)(C)(i) for child support enforcement purposes and Department of Revenue purposes. The Board will not release a Social Security Number for any other purpose without express written consent of the individual.

Stat. Auth.: ORS 670.310, 25.785, 305.385, 42 USC §666, 42 USC §405
Stats. Implemented: ORS 671.335, 671.345, 671.376, 671.415, 25.785, 305.385
Hist.: LAB 2-2015, f. 8-17-15, cert. ef. 9-1-15

**804-040-0000**
**Fees**

The following are fees established by the board:

(1) Examination Fees:

(a) Application fee for examination: $100.

(b) Landscape Architect Registration Examination (LARE): the cost for each section of the LARE is set by the Council of Landscape Architectural Boards (CLARB) and must be paid directly to CLARB.

(2) Registration Fees:

(a) Initial Landscape Architect in Training registration: $50.00.

(b) Annual renewal for Landscape Architect in Training: $50.00.

(c) Application fee for initial Landscape Architect registration: $100.00.

(d) Application fee for Landscape Architect registration by reciprocity: $100.00.

(e) Initial Landscape Architect registration: $250.00.

(f) Annual renewal for Landscape Architect: $250.00.

(g) Inactive and Inactive Emeritus Annual fee: $25.00.

(3) Business Fees:

(a) Application fee for business registration: $100.00.

(b) Initial certification as an Authorized Business Entity in Landscape Architecture: $112.50.

(c) Annual renewal fee for an Authorized Business Entity in Landscape Architecture: $112.50.

(4) Miscellaneous Fees:

(a) Late fee: $100.00 for each delinquent year.

(b) Duplicate certificate: $50.00.

(c) Fee for registrant list: $50.00.

Stat. Auth.: ORS 182.466(4), 670.310, 671.365, 671.415
Stats. Implemented: ORS 671.325, 671.345, 671.365, 671.376
Hist.: LAB 2-1982, f. & ef. 6-24-82; LAB 1-1983, f. & ef. 2-1-83; LAB 3-1983(Temp), f. 10-14-83, ef. 11-1-83; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1986, f. & ef. 3-5-86; LAB 1-1987, f. & ef. 1-5-87; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 1-1992, f. 3-23-92, cert. ef. 4-1-92; LAB 1-1993, f. & cert. ef. 7-1-93; LAB 1-1998, f. & cert. ef. 2-5-98; LAB 2-1998, f. & cert. ef. 4-22-98; LAB 1-1999, f. & cert. ef. 10-22-99; LAB 1-2001 (Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; Administrative correction 12-2-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 2-2005, f. & cert. ef. 5-18-05; LAB 1-2006, f. & cert. ef. 3-17-06; LAB 2-2008, f. & cert. ef. 3-20-08; LAB 2-2009, f. & cert. ef. 12-11-09; LAB 1-2010, f. & cert. ef. 2-17-10; LAB 3-2012(Temp), f. & cert. ef. 9-5-12 thru 3-4-13; LAB 4-2012, f. 11-16-12, cert. ef. 11-21-12; LAB 1-2014, f. & cert. ef. 11-19-14; LAB 2-2015, f. 8-17-15, cert. ef. 9-1-15

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## Oregon Board of Dentistry
## Chapter 818

**Rule Caption:** Amends Definitions, Fees, Unprofessional Conduct, Continuing Education, Anesthesia, Dental Hygiene and Dental Assistant rules.
**Adm. Order No.:** OBD 3-2015
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 10-1-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 818-001-0002, 818-001-0087, 818-012-0030, 818-021-0060, 818-021-0070, 818-026-0080, 818-035-0025, 818-035-0030, 818-035-0065, 818-042-0040, 818-042-0050, 818-042-0070, 818-042-0090
**Rules Repealed:** 818-001-0087(T), 818-035-0025(T), 818-035-0030(T)

**Subject:** The Board is amending 818-001-0002 Definitions. The amendment to 818-001-0002 is to define what a dental study group is.

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

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

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

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

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

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

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

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

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

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

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

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

**Rules Coordinator:** Stephen Prisby—(971) 673-3200

**818-001-0002**
**Definitions**

As used in OAR chapter 818:

(1) "Board" means the Oregon Board of Dentistry, the members of the Board, its employees, its agents, and its consultants.

(2) "Dental Practice Act" means ORS Chapter 679 and 680.010 to 680.170 and the rules adopted pursuant thereto.

(3) "Dentist" means a person licensed pursuant to ORS Chapter 679 to practice dentistry.

(4) "Direct Supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(5) "General Supervision" means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

(6) "Hygienist" means a person licensed pursuant to ORS 680.010 to 680.170 to practice dental hygiene.

(7) "Indirect Supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

(8) "Informed Consent" means the consent obtained following a thorough and easily understood explanation to the patient, or patient's guardian, of the proposed procedures, any available alternative procedures and any risks associated with the procedures. Following the explanation, the licensee shall ask the patient, or the patient's guardian, if there are any questions. The licensee shall provide thorough and easily understood answers to all questions asked.

(9)(a) "Licensee" means a dentist or hygienist.

(b) "Volunteer Licensee" is a dentist or dental hygienist licensed according to rule to provide dental health care without receiving or expecting to receive compensation.

(10) "Limited Access Patient" means a patient who, due to age, infirmity, or handicap is unable to receive regular dental hygiene treatment in a dental office.

(11) "Specialty." Specialty areas of dentistry are as defined by the American Dental Association, Council on Dental Education. The specialty definitions are added to more clearly define the scope of the practice as it pertains to the specialty areas of dentistry.

(a) "Dental Public Health" is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(b) "Endodontics" is the branch of dentistry which is concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(c) "Oral and Maxillofacial Pathology" is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations.

(d) "Oral and Maxillofacial Radiology" is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

(e) "Oral and Maxillofacial Surgery" is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(f) "Orthodontics and Dentofacial Orthopedics" is the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

(g) "Pediatric Dentistry" is an age defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

(h) "Periodontics" is the specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

(i) "Prosthodontics" is the branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance and health of the patient by the restoration of natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes.

(12) "Full-time" as used in ORS 679.025 and 680.020 is defined by the Board as any student who is enrolled in an institution accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency in a course of study for dentistry or dental hygiene.

(13) For purposes of ORS 679.020(4)(h) the term "dentist of record" means a dentist that either authorized treatment for, supervised treatment of or provided treatment for the patient in clinical settings of the institution described in 679.020(3).

(14) "Dental Study Group" as used in ORS 679.050, OAR 818-021-0060 and OAR 818-021-0070 is defined as a group of licensees who come together for clinical and non-clinical educational study for the purpose of maintaining or increasing their competence. This is not meant to be a replacement for residency requirements.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.010 & 680.010

Hist.: DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0001; DE 3-1997, f. & cert. ef. 8-27-97; OBD 7-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 4-2011, f. & cert,. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-001-0087**
**Fees**

(1) The Board adopts the following fees:

(a) Biennial License Fees:

(A) Dental —$390;

(B) Dental — retired — $0;

(C) Dental Faculty — $335;

(D) Volunteer Dentist — $0;

(E) Dental Hygiene —$230;

(F) Dental Hygiene — retired — $0;

(G) Volunteer Dental Hygienist — $0.

(b) Biennial Permits, Endorsements or Certificates:

(A) Nitrous Oxide Permit — $40;

(B) Minimal Sedation Permit — $75;

(C) Moderate Sedation Permit — $75;

(D) Deep Sedation Permit — $75;

(E) General Anesthesia Permit — $140;

(F) Radiology — $75;

(G) Expanded Function Dental Assistant — $50;

(H) Expanded Function Orthodontic Assistant — $50;

(I) Instructor Permits — $40;

(J) Dental Hygiene Restorative Functions Endorsement — $50;

(K) Restorative Functions Dental Assistant — $50;

(L) Anesthesia Dental Assistant — $50;

(M) Dental Hygiene, Expanded Practice Permit — $75;

(N) Non-Resident Dental Permit - $100.00;

(c) Applications for Licensure:

(A) Dental — General and Specialty — $345;

(B) Dental Faculty — $305;

(C) Dental Hygiene — $180;

(D) Licensure Without Further Examination — Dental and Dental Hygiene — $790.

(d) Examinations:

(A) Jurisprudence — $0;

(B) Dental Specialty:

(i) If only one candidate applies for the exam, a fee of $2,000.00 will be required at the time of application; and

(ii) If two candidates apply for the exam, a fee of $1,000.00 will be required at the time of application; and

(iii) If three or more candidates apply for the exam, a fee of $750.00 will be required at the time of application.

(e) Duplicate Wall Certificates — $50.

(2) Fees must be paid at the time of application and are not refundable.

(3) The Board shall not refund moneys under $5.01 received in excess of amounts due or to which the Board has no legal interest unless the person who made the payment or the person's legal representative requests a refund in writing within one year of payment to the Board.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 293.445, 679.060, 679.115, 679.120, 679.250, 680.050, 680.075, 680.200 & 680.205

Hist.: DE 6-1985(Temp), f. & ef. 9-20-85; DE 3-1986, f. & ef. 3-31-86; DE 1-1987, f. & ef. 10-7-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0085; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; DE 1-1992(Temp), f. & cert. ef. 6-24-92; DE 2-1993, f. & cert. ef. 7-13-93; OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction, 8-2-99; OBD 5-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 8-2001, f.

& cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2009(Temp), f. 6-11-09, cert. e. 7-1-09 thru 11-1-09; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2012, f. & cert. ef. 1-27-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 2-2015(Temp), f. & cert. ef. 6-26-15 thru 12-22-15; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-012-0030**
**Unprofessional Conduct**

The Board finds that in addition to the conduct set forth in ORS 679.140(2), a licensee engages in unprofessional conduct if the licensee does or permits any person to:

(1) Attempt to obtain a fee by fraud or misrepresentation.

(2) Obtaining a fee by fraud or misrepresentation.

(a) A licensee obtains a fee by fraud if the licensee obtains a fee by knowingly making or permitting any person to make a material, false statement intending that a recipient who is unaware of the truth rely upon the statement.

(b) A licensee obtains a fee by misrepresentation if the licensee obtains a fee through making or permitting any person to make a material, false statement.

(c) Giving cash discounts and not disclosing them to third party payors is not fraud or misrepresentation.

(3) Offer rebates, split fees, or commissions for services rendered to a patient to any person other than a partner, employee, or employer.

(4) Accept rebates, split fees, or commissions for services rendered to a patient from any person other than a partner, employee, or employer.

(5) Initiate, or engage in, with a patient, any behavior with sexual connotations. The behavior can include but is not limited to, inappropriate physical touching; kissing of a sexual nature; gestures or expressions, any of which are sexualized or sexually demeaning to a patient; inappropriate procedures, including, but not limited to, disrobing and draping practices that reflect a lack of respect for the patient's privacy; or initiating inappropriate communication, verbal or written, including, but not limited to, references to a patient's body or clothing that are sexualized or sexually demeaning to a patient; and inappropriate comments or queries about the professional's or patient's sexual orientation, sexual performance, sexual fantasies, sexual problems, or sexual preferences.

(6) Engage in an unlawful trade practice as defined in ORS 646.605 to 646.608.

(7) Fail to present a treatment plan with estimated costs to a patient upon request of the patient or to a patient's guardian upon request of the patient's guardian.

(8) Misrepresent any facts to a patient concerning treatment or fees.

(9)(a) Fail to provide a patient or patient's guardian within 14 days of written request:

(A) Legible copies of records; and

(B) Duplicates of study models and radiographs, photographs or legible copies thereof if the radiographs, photographs or study models have been paid for.

(b) The dentist may require the patient or guardian to pay in advance a fee reasonably calculated to cover the costs of making the copies or duplicates. The dentist may charge a fee not to exceed $30 for copying 10 or fewer pages of written material and no more than $0.50 per page for pages 11 through 50 and no more than $0.25 for each additional page (including records copied from microfilm), plus any postage costs to mail copies requested and actual costs of preparing an explanation or summary of information, if requested. The actual cost of duplicating x-rays may also be charged to the patient. Patient records or summaries may not be withheld from the patient because of any prior unpaid bills, except as provided in (9)(a)(B) of this rule.

(10) Fail to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders services.

(11) Use prescription forms pre-printed with any Drug Enforcement Administration number, name of controlled substances, or facsimile of a signature.

(12) Use a rubber stamp or like device to reproduce a signature on a prescription form or sign a blank prescription form.

(13) Order drugs listed on Schedule II of the Drug Abuse Prevention and Control Act, 21 U.S.C. Sec. 812, for office use on a prescription form.

(14) Violate any Federal or State law regarding controlled substances.

(15) Becomes addicted to, or dependent upon, or abuses alcohol, illegal or controlled drugs, or mind altering substances.

(16) Practice dentistry or dental hygiene in a dental office or clinic not owned by an Oregon licensed dentist(s), except for an entity described under ORS 679.020(3) and dental hygienists practicing pursuant to ORS 680.205(1)(2).

(17) Make an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Oregon Board of Dentistry; to truthfully and fully answer any questions posed by an agent or representative of the Board; or to participate as a witness in a Board proceeding.

(18) Fail to maintain at a minimum a current BLS for Healthcare Providers certificate or its equivalent. (Effective January 2015).

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

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.140(1)(c), 679.140(2), 679.170(6) & 680.100

Hist.: DE 6, f. 8-9-63, ef. 9-11-63; DE 14, f. 1-20-72, ef. 2-10-72; DE 5-1980, f. & ef. 12-26-80; DE 2-1982, f. & ef. 3-19-82; DE 5-1982, f. & ef. 5-26-82; DE 9-1984, f. & ef. 5-17-84; Renumbered from 818-010-0080; DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0020; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 2-1997, f. & cert. ef. 2-20-97; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2007, f. & cert. ef. 3-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-021-0060**
**Continuing Education — Dentists**

(1) Each dentist must complete 40 hours of continuing education every two years. Continuing education (C.E.) must be directly related to clinical patient care or the practice of dental public health.

(2) Dentists must maintain records of successful completion of continuing education for at least four licensure years consistent with the licensee's licensure cycle. (A licensure year for dentists is April 1 through March 31.) The licensee, upon request by the Board, shall provide proof of successful completion of continuing education courses.

(3) Continuing education includes:

(a) Attendance at lectures, dental study groups, college post-graduate courses, or scientific sessions at conventions.

(b) Research, graduate study, teaching or preparation and presentation of scientific sessions. No more than 12 hours may be in teaching or scientific sessions. (Scientific sessions are defined as scientific presentations, table clinics, poster sessions and lectures.)

(c) Correspondence courses, videotapes, distance learning courses or similar self-study course, provided that the course includes an examination and the dentist passes the examination.

(d) Continuing education credit can be given for volunteer pro bono dental services provided in the state of Oregon; community oral health instruction at a public health facility located in the state of Oregon; authorship of a publication, book, chapter of a book, article or paper published in a professional journal; participation on a state dental board, peer review, or quality of care review procedures; successful completion of the National Board Dental Examinations taken after initial licensure; a recognized specialty examination taken after initial licensure; or test development for clinical dental, dental hygiene or specialty examinations. No more than 6 hours of credit may be in these areas.

(4) At least three hours of continuing education must be related to medical emergencies in a dental office. No more than four hours of Practice Management and Patient Relations may be counted toward the C.E. requirement in any renewal period.

(5) All dentists licensed by the Oregon Board of Dentistry will complete a one-hour pain management course specific to Oregon provided by the Pain Management Commission of the Oregon Health Authority. All applicants or licensees shall complete this requirement by January 1, 2010 or within 24 months of the first renewal of the dentist's license.

(6) At least 2 hours of continuing education must be related to infection control. (Effective January 1, 2015.)

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(9)

Hist.: DE 3-1987, f. & ef. 10-15-87; DE 4-1987(Temp), f. & ef. 11-25-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-020-0072; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 9-2000, f. & cert. ef. 7-28-00; OBD 16-2001, f. 12-7-01, cert. ef. 4-1-02; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 3-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-021-0070**
**Continuing Education — Dental Hygienists**

(1) Each dental hygienist must complete 24 hours of continuing education every two years. An Expanded Practice Permit Dental Hygienist shall complete a total of 36 hours of continuing education every two years.

Continuing education (C.E.) must be directly related to clinical patient care or the practice of dental public health.

(2) Dental hygienists must maintain records of successful completion of continuing education for at least four licensure years consistent with the licensee's licensure cycle. (A licensure year for dental hygienists is October 1 through September 30.) The licensee, upon request by the Board, shall provide proof of successful completion of continuing education courses.

(3) Continuing education includes:

(a) Attendance at lectures, dental study groups, college post-graduate courses, or scientific sessions at conventions.

(b) Research, graduate study, teaching or preparation and presentation of scientific sessions. No more than six hours may be in teaching or scientific sessions. (Scientific sessions are defined as scientific presentations, table clinics, poster sessions and lectures.)

(c) Correspondence courses, videotapes, distance learning courses or similar self-study course, provided that the course includes an examination and the dental hygienist passes the examination.

(d) Continuing education credit can be given for volunteer pro bono dental hygiene services provided in the state of Oregon; community oral health instruction at a public health facility located in the state of Oregon; authorship of a publication, book, chapter of a book, article or paper published in a professional journal; participation on a state dental board, peer review, or quality of care review procedures; successful completion of the National Board Dental Hygiene Examination, taken after initial licensure; or test development for clinical dental hygiene examinations. No more than 6 hours of credit may be in these areas.

(4) At least three hours of continuing education must be related to medical emergencies in a dental office. No more than two hours of Practice Management and Patient Relations may be counted toward the C.E. requirement in any renewal period.

(5) Dental hygienists who hold a Nitrous Oxide Permit must meet the requirements contained in OAR 818-026-0040(9) for renewal of the Nitrous Oxide Permit.

(6) At least 2 hours of continuing education must be related to infection control. (Effective January 1, 2015.)

Stat. Auth.: ORS 679
Stats. Implemented: ORS 279.250(9)
Hist.: DE 3-1987, f. & ef. 10-15-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-020-0073; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 9-2000, f. & cert. ef. 7-28-00; OBD 2-2002, f. 7-31-02, cert. ef. 10-1-02; OBD 2-2004, f. 7-12-04, cert. ef. 7-15-04; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-026-0080**
**Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia**

(1) A dentist who does not hold an anesthesia permit may perform dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist licensed by the Oregon Board of Medical Examiners, another Oregon licensed dentist holding an appropriate anesthesia permit, or a Certified Registered Nurse Anesthetist (CRNA) licensed by the Oregon Board of Nursing.

(2) A dentist who does not hold a Nitrous Oxide Permit for nitrous oxide sedation may perform dental procedures on a patient who receives nitrous oxide induced by an Oregon licensed dental hygienist holding a Nitrous Oxide Permit.

(3) A dentist who performs dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit, a CRNA, or a dental hygienist who induces nitrous oxide sedation, shall maintain a current BLS for Healthcare Providers certificate, or its equivalent, and have the same personnel, facilities, equipment and drugs available during the procedure and during recovery as required of a dentist who has a permit for the level of anesthesia being provided.

(4) A dentist, a dental hygienist or an Expanded Function Dental Assistant (EFDA) who performs procedures on a patient who is receiving anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit or a CRNA shall not schedule or treat patients for non emergent care during the period of time of the sedation procedure.

(5) Once anesthetized, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(6) The qualified anesthesia provider who induces anesthesia shall monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of anesthesia being induced. The anesthesia record shall be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.

(7) A dentist who intends to use the services of a qualified anesthesia provider as described in section 1 above, shall notify the Board in writing of his/her intent. Such notification need only be submitted once every licensing period.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-035-0025**
**Prohibitions**

A dental hygienist may not:

(1) Diagnose and treatment plan other than for dental hygiene services;

(2) Cut hard or soft tissue with the exception of root planing;

(3) Extract any tooth;

(4) Fit or adjust any correctional or prosthetic appliance except as provided by OAR 818-035-0030(1)(h);

(5) Prescribe, administer or dispense any drugs except as provided by OAR 818-035-0030, 818-035-0040, 818-026-0060(11) and 818-026-0070(11);

(6) Place, condense, carve or cement permanent restorations except as provided in OAR 818-035-0072, or operatively prepare teeth;

(7) Irrigate or medicate canals; try in cones, or ream, file or fill canals;

(8) Use the behavior management techniques of Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

(9) Place or remove healing caps or healing abutments, except under direct supervision.

(10) Place implant impression copings, except under direct supervision.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020(1)
Hist.: DE 2-1992, f. & cert. ef. 6-24-92; DE 2-1997, f. & cert. ef. 2-20-97; OBD 7-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 1-2015(Temp), f. & cert. ef. 4-17-15 thru 10-13-15; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-035-0030**
**Additional Functions of Dental Hygienists**

(1) In addition to functions set forth in ORS 679.010, a dental hygienist may perform the following functions under the general supervision of a licensed dentist:

(a) Make preliminary intra-oral and extra-oral examinations and record findings;

(b) Place periodontal dressings;

(c) Remove periodontal dressings or direct a dental assistant to remove periodontal dressings;

(d) Perform all functions delegable to dental assistants and expanded function dental assistants providing that the dental hygienist is appropriately trained;

(e) Administer and dispense antimicrobial solutions or other antimicrobial agents in the performance of dental hygiene functions.

(f) Prescribe, administer and dispense fluoride, fluoride varnish, antimicrobial solutions for mouth rinsing or other non-systemic antimicrobial agents.

(g) Use high-speed handpieces to polish restorations and to remove cement and adhesive material.

(h) Apply temporary soft relines to complete dentures for the purpose of tissue conditioning.

(i) Perform all aspects of teeth whitening procedures.

(2) A dental hygienist may perform the following functions at the locations and for the persons described in ORS 680.205(1) and (2) without the supervision of a dentist:

(a) Determine the need for and appropriateness of sealants or fluoride; and

(b) Apply sealants or fluoride.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.025(2)(j)
Hist.: DE 5-1984, f. & ef. 5-17-84; DE 3-1986, f. & ef. 3-31-86; DE 2-1992, f. & cert. ef. 6-24-92; OBD 7-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 1-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 1-2015(Temp), f. & cert. ef. 4-17-15 thru 10-13-15; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-035-0065**
**Expanded Practice Dental Hygiene Permit**

The Board shall issue an Expanded Practice Permit to a Dental Hygienist who holds an unrestricted Oregon license, and completes an application approved by the Board, pays the permit fee, and

(1) Certifies on the application that the dental hygienist has completed at least 2,500 hours of supervised dental hygiene clinical practice, or clinical teaching hours, and also completes 40 hours of courses chosen by the applicant in clinical dental hygiene or public health sponsored by continuing education providers approved by the Board; or

(2) Certifies on the application that the dental hygienist has completed a course of study, before or after graduation from a dental hygiene program, that includes at least 500 hours of dental hygiene practice on patients described in ORS 680.205; and

(3) Provides the Board with a copy of the applicant's current professional liability policy or declaration page which will include, the policy number and expiration date of the policy.

(4) Notwithstanding OAR 818-035-0025(1), prior to performing any dental hygiene services an Expanded Practice Dental Hygienist shall examine the patient, gather data, interpret the data to determine the patient's dental hygiene treatment needs and formulate a patient care plan.

(5) An Expanded Practice Dental Hygienist may render the services described in paragraphs(6)(a) to (d) of this rule to the patients described in ORS 680.205(1) if the Expanded Practice Dental Hygienist has entered into a written collaborative agreement in a format approved by the Board with a dentist licensed under ORS Chapter 679.

(6) The collaborative agreement must set forth the agreed upon scope of the dental hygienist's practice with regard to:

(a) Administering local anesthesia;

(b) Administering temporary restorations without excavation;

(c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs; and

(d) Referral parameters.

(7) The collaborative agreement must comply with ORS 679.010 to 680.990.

(8) From the date this rule is effective, the Board has the authority to grant a Limited Access Permit through December 31, 2011, pursuant to ORS 680.200.

Stat. Auth.: ORS 680
Stats. Implemented: ORS 680.200
Hist.: OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-2001, f. & cert. ef. 1-8-01; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-042-0040**
**Prohibited Acts**

No licensee may authorize any dental assistant to perform the following acts:

(1) Diagnose or plan treatment.

(2) Cut hard or soft tissue.

(3) Any Expanded Function duty (818-042-0070 and 818-042-0090) or Expanded Orthodontic Function duty (818-042-0100) without holding the appropriate certification.

(4) Correct or attempt to correct the malposition or malocclusion of teeth except as provided by OAR 818-042-0100.

(5) Adjust or attempt to adjust any orthodontic wire, fixed or removable appliance or other structure while it is in the patient's mouth.

(6) Administer any drug except fluoride, topical anesthetic, desensitizing agents, over the counter medications per package instructions or drugs administered pursuant to OAR 818-026-0030(6), 818-026-0050(5)(a), 818-026-0060(11), 818-026-0065(11), 818-026-0070(11) and as provided in 818-042-0070 and 818-042-0115.

(7) Prescribe any drug.

(8) Place periodontal packs.

(9) Start nitrous oxide.

(10) Remove stains or deposits except as provided in OAR 818-042-0070.

(11) Use ultrasonic equipment intra-orally except as provided in OAR 818-042-0100.

(12) Use a high-speed handpiece or any device that is operated by a high-speed handpiece intra-orally.

(13) Use lasers, except laser-curing lights.

(14) Use air abrasion or air polishing.

(15) Remove teeth or parts of tooth structure.

(16) Cement or bond any fixed prosthetic or orthodontic appliance including bands, brackets, retainers, tooth moving devices, or orthopedic appliances except as provided in 818-042-0100.

(17) Condense and carve permanent restorative material except as provided in OAR 818-042-0095.

(18) Place any type of cord subgingivally except as provided by in OAR 818-042-0090.

(19) Take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, except diagnostic or opposing models or for the fabrication of temporary or provisional restorations or appliances.

(20) Apply denture relines except as provided in OAR 818-042-0090(2).

(21) Expose radiographs without holding a current Certificate of Radiologic Proficiency issued by the Board (818-042-0050 and 818-042-0060) except while taking a course of instruction approved by the Oregon Health Authority, Oregon Public Health Division, Office of Environmental Public Health, Radiation Protection Services, or the Oregon Board of Dentistry.

(22) Use the behavior management techniques known as Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

(23) Perform periodontal probing.

(24) Place or remove healing caps or healing abutments, except under direct supervision.

(25) Place implant impression copings, except under direct supervision.

(26) Any act in violation of Board statute or rules.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020, 679.025 & 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 1-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 3-2OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10005, f. 10-26-05, cert. ef. 11-1-05; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-042-0050**
**Taking of X-Rays — Exposing of Radiographs**

(1) A dentist may authorize the following persons to place films, adjust equipment preparatory to exposing films, and expose the films under general supervision:

(a) A dental assistant certified by the Board in radiologic proficiency; or

(b) A radiologic technologist licensed by the Oregon Board of Medical Imaging and certified by the Oregon Board of Dentistry (OBD) who has completed ten (10) clock hours in a Board approved dental radiology course and submitted a satisfactory full mouth series of radiographs to the OBD.

(2) A dentist or dental hygienist may authorize a dental assistant who has completed a course of instruction approved by the Oregon Board of Dentistry, and who has passed the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry to place films, adjust equipment preparatory to exposing films, and expose the films under the indirect supervision of a dentist, dental hygienist, or dental assistant who holds an Oregon Radiologic Proficiency Certificate. The dental assistant must successfully complete the clinical examination within six months of the dentist authorizing the assistant to take radiographs.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-042-0070**
**Expanded Function Dental Assistants (EFDA)**

The following duties are considered Expanded Function Duties and may be performed only after the dental assistant complies with the requirements of 818-042-0080:

(1) Polish the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains;

(2) Remove temporary crowns for final cementation and clean teeth for final cementation;

(3) Preliminarily fit crowns to check contacts or to adjust occlusion outside the mouth;

(4) Place temporary restorative material (i.e., zinc oxide eugenol based material) in teeth providing that the patient is checked by a dentist before and after the procedure is performed;

(5) Place and remove matrix retainers for alloy and composite restorations;

(6) Polish amalgam or composite surfaces with a slow speed handpiece;

(7) Remove excess supragingival cement from crowns, bridges, bands or brackets with hand instruments providing that the patient is checked by a dentist after the procedure is performed;

(8) Fabricate temporary crowns, and temporarily cement the temporary crown. The cemented crown must be examined and approved by the dentist prior to the patient being released;

(9) Under general supervision, when the dentist is not available and the patient is in discomfort, an EFDA may recement a temporary crown or recement a permanent crown with temporary cement for a patient of record providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate; and

(10) Perform all aspects of teeth whitening procedures.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020, 679.025 & 679.250
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

**818-042-0090**
**Additional Functions of EFDAs**

Upon successful completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association, or other course of instruction approved by the Board, a certified Expanded Function Dental Assistant may perform the following functions under the indirect supervision of a dentist or dental hygienist providing that the procedure is checked by the dentist or dental hygienist prior to the patient being dismissed:

(1) Apply pit and fissure sealants provided the patient is examined before the sealants are placed. The sealants must be placed within 45 days of the procedure being authorized by a dentist or dental hygienist.

(2) Apply temporary soft relines to complete dentures for the purpose of tissue conditioning.

(3) Place cord subgingivally.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 3-2015, f. 9-8-15, cert. ef. 10-1-15

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**Rule Caption:** Amends Anesthesia Rules.
**Adm. Order No.:** OBD 4-2015
**Filed with Sec. of State:** 9-8-2015
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**Rules Amended:** 818-026-0020, 818-026-0040, 818-026-0050, 818-026-0060, 818-026-0065, 818-026-0070, 818-026-0110
**Subject:** The Board is amending 818-026-0020 Presumption of Degree of Central Nervous System Depression. The amendment to 818-026-0020 is to delete reference to rapidly acting steroids in the rule.

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

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

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

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

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

The Board is amending 818-026-0110 Office Evaluations. The amendment to 818-026-0110 is to clarify the criteria for in office evaluations.
**Rules Coordinator:** Stephen Prisby—(971) 673-3200

**818-026-0020**
**Presumption of Degree of Central Nervous System Depression**

(1) In any hearing where a question exists as to the degree of central nervous system depression a licensee has induced (i.e., general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation), the Board may base its findings on, among other things, the types, dosages and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status.

(2) The following drugs are conclusively presumed to produce general anesthesia and may only be used by a licensee holding a General Anesthesia Permit:

(a) Ultra short acting barbiturates including, but not limited to, sodium methohexital, thiopental, thiamylal;

(b) Alkylphenols — propofol (Diprivan) including precursors or derivatives;

(c) Neuroleptic agents;

(d) Dissociative agents — ketamine;

(e) Etomidate; and

(f) Volatile inhalational agents.

(3) No permit holder shall have more than one person under any form of sedation or general anesthesia at the same time exclusive of recovery.

(4) A licensee that does not hold a Moderate, Deep Sedation or General Anesthesia Permit may not administer, for purpose of anxiolysis or sedation, Benzodiazepines or narcotics in children under 6 years of age.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

**818-026-0040**
**Qualifications, Standards Applicable, and Continuing Education Requirements for Anesthesia Permits: Nitrous Oxide Permit**

Nitrous Oxide Sedation.

(1) The Board shall issue a Nitrous Oxide Permit to an applicant who:

(a) Is either a licensed dentist or licensed hygienist in the State of Oregon;

(b) Maintains a current BLS for Healthcare Providers certificate or its equivalent; and

(c) Has completed a training course of at least 14 hours of instruction in the use of nitrous oxide from a dental school or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, or as a postgraduate.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow delivery of appropriate care in an emergency situation;

(b) An operating table or chair which permits the patient to be positioned so that the patient's airway can be maintained, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system; and

(g) Sphygmomanometer and stethoscope and/or automatic blood pressure cuff.

(3) Before inducing nitrous oxide sedation, a permit holder shall:

(a) Evaluate the patient;

(b) Give instruction to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for nitrous oxide sedation; and

(d) Obtain informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) If a patient chronically takes a medication which can have sedative side effects, including, but not limited to, a narcotic or benzodiazepine, the practitioner shall determine if the additive sedative effect of nitrous oxide would put the patient into a level of sedation deeper than nitrous oxide. If the practitioner determines it is possible that providing nitrous oxide to such a patient would result in minimal sedation, a minimal sedation permit would be required.

(5) A patient under nitrous oxide sedation shall be visually monitored by the permit holder or by an anesthesia monitor at all times. The patient shall be monitored as to response to verbal stimulation, oral mucosal color and preoperative and postoperative vital signs.

(6) The permit holder or anesthesia monitor shall record the patient's condition. The record must include documentation of all medications administered with dosages, time intervals and route of administration.

(7) The person administering the nitrous oxide sedation may leave the immediate area after initiating the administration of nitrous oxide sedation only if a qualified anesthesia monitor is continuously observing the patient.

(8) The permit holder shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(b) The patient can talk and respond coherently to verbal questioning;

(c) The patient can sit up unaided or without assistance;

(d) The patient can ambulate with minimal assistance; and

(e) The patient does not have nausea, vomiting or dizziness.

(9) The permit holder shall make a discharge entry in the patient's record indicating the patient's condition upon discharge.

(10) Permit renewal. In order to renew a Nitrous Oxide Permit, the permit holder must provide proof of a current BLS for Healthcare Providers certificate or its equivalent. In addition, Nitrous Oxide Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, nitrous oxide, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current BLS for Healthcare Providers certificate or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060 and 818-021-0070.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.250(7) & (10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

**818-026-0050**
**Minimal Sedation Permit**

Minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a Minimal Sedation Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) Maintains a current BLS for Healthcare Providers certificate or its equivalent; and

(c) Completion of a comprehensive training program consisting of at least 16 hours of training and satisfies the requirements of the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007) at the time training was commenced or postgraduate instruction was completed, or the equivalent of that required in graduate training programs, in sedation, recognition and management of complications and emergency care; or

(d) In lieu of these requirements, the Board may accept equivalent training or experience in minimal sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full facemask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) Sphygmomanometer, stethoscope, pulse oximeter, and/or automatic blood pressure cuff; and

(h) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) Before inducing minimal sedation, a dentist who induces minimal sedation shall:

(a) Evaluate the patient;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for minimal sedation; and

(d) Obtain written informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) No permit holder shall have more than one person under minimal sedation at the same time.

(5) While the patient is being treated under minimal sedation, an anesthesia monitor shall be present in the room in addition to the treatment provider. The anesthesia monitor may be the dental assistant. After training, a dental assistant, when directed by a dentist, may administer oral sedative agents or anxiolysis agents calculated and dispensed by a dentist under the direct supervision of a dentist.

(6) A patient under minimal sedation shall be visually monitored at all times, including recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Color of mucosa, skin or blood must be evaluated continually. Patients must have continuous monitoring using pulse oximetry. The patient's response to verbal stimuli, blood pressure, heart rate, and respiration shall be monitored and documented if they can reasonably be obtained.

(b) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(8) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(g) A dentist shall not release a patient who has undergone minimal sedation except to the care of a responsible third party.

(9) Permit renewal. In order to renew a Minimal Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent. In addition, Minimal Sedation Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current BLS for Healthcare Providers certificate, or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist.: OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

**818-026-0060**
**Moderate Sedation Permit**

Moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue or renew a Moderate Sedation Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, either maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated. Successful completion of a board approved course on minimal/moderate sedation at least every two years may be substituted for ACLS, but not for PALS; and

(c) Satisfies one of the following criteria:

(A) Completion of a comprehensive training program in enteral and/or parenteral sedation that satisfies the requirements described in Part V of the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007) at the time training was commenced.

(i) Enteral Moderate Sedation requires a minimum of 24 hours of instruction plus management of at least 10 dental patient experiences by the enteral and/or enteral-nitrous oxide/oxygen route.

(ii) Parenteral Moderate Sedation requires a minimum of 60 hours of instruction plus management of at least 20 dental patients by the intravenous route.

(B) Completion of an ADA accredited postdoctoral training program (e.g., general practice residency) which affords comprehensive and appropriate training necessary to administer and manage parenteral sedation, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in moderate sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, oral and nasopharyngeal airways, larynageal mask airways, intravenous fluid administration equipment, automated external defibrillator (AED); and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) During the administration of moderate sedation, and at all times while the patient is under moderate sedation, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing moderate sedation, a dentist who induces moderate sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under moderate sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry, and End-tidal CO2 monitors. Patients with cardiovascular disease shall have continuous electrocardiograph (ECG) monitoring. The patient's blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 15 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under moderate sedation shall be continuously monitored and shall not be left alone while under sedation;

(b) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from moderate sedation.

(8) A dentist shall not release a patient who has undergone moderate sedation except to the care of a responsible third party.

(a) When a reversal agent is administered, the dentist shall document justification for its use and how the recovery plan was altered.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may dispense oral medications that have been prepared by the dentist permit holder for oral administration to a patient under direct supervision or introduce additional anesthetic agents into an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Moderate Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; Successful completion of a board approved course on minimal/moderate sedation at least every two years may be substituted for ACLS, but not for PALS; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS or PALS certification or successful completion of the American Dental Association's course "Recognition and Management of Complications during Minimal and Moderate Sedation" may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 1-1999, f. 2-26-99, cert. ef. 3-1-99; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

**818-026-0065**
**Deep Sedation**

Deep sedation, moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue a Deep Sedation Permit to a licensee who holds a Class 3 Permit on or before July 1, 2010 who:

(a) Is a licensed dentist in Oregon; and

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under deep sedation, moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation, and at all times while the patient is under deep sedation, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation, a dentist who induces deep sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry, electrocardiograph monitors (ECG) and End-tidal CO2 monitors. The patient's heart rhythm shall be continuously monitored and the patient's blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 5 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under deep sedation shall be continuously monitored;

(b) Once sedated, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(c) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from deep sedation.

(8) A dentist shall not release a patient who has undergone deep sedation except to the care of a responsible third party. When a reversal agent is administered, the dentist shall document justification for its use and how the recovery plan was altered.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may administer oral sedative agents calculated by a dentist or introduce additional anesthetic agents into an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Deep Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS and/or PALS certificates may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist. : OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

**818-026-0070**

**General Anesthesia Permit**

General anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a General Anesthesia Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated, and

(c) Satisfies one of the following criteria:

(A) Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007) consisting of a minimum of 2 years of a postgraduate anesthesia residency at the time training was commenced.

(B) Completion of any ADA accredited postdoctoral training program, including but not limited to Oral and Maxillofacial Surgery, which affords comprehensive and appropriate training necessary to administer and manage general anesthesia, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in general anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least three individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, intravenous medications for treatment of cardiac arrest, narcotic antagonist, antihistaminic, antiarrhythmics, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation or general anesthesia, and at all times while the patient is under deep sedation or general anesthesia, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation or general anesthesia the dentist who induces deep sedation or general anesthesia shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for general anesthesia or deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation or general anesthesia shall be visually monitored at all times, including recovery phase. A dentist who induces deep sedation or general anesthesia or anesthesia monitor trained in monitoring patients under deep sedation or general anesthesia shall monitor and record the patient's condition on a contemporaneous record.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring of their heart rate, heart rhythm, oxygen saturation levels and respiration using pulse oximetry, electrocardiograph monitors (ECG) and End-tidal CO2 monitors. The patient's blood pressure, heart rate and oxygen saturation shall be assessed every five minutes, and shall be contemporaneously documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. The person administering the anesthesia and the person monitoring the patient may not leave the patient while the patient is under deep sedation or general anesthesia;

(b) Once sedated, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(c) During the recovery phase, the patient must be monitored, including the use of pulse oximetry, by an individual trained to monitor patients recovering from general anesthesia.

(8) A dentist shall not release a patient who has undergone deep sedation or general anesthesia except to the care of a responsible third party. When a reversal agent is administered, the dentist shall document justification for its use and how the recovery plan was altered.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made in the patient's record by the dentist indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a General Anesthesia Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS and/or PALS certificates may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; Administrative correction 6-21-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

**818-026-0110**
**Office Evaluations**

(1) By obtaining an anesthesia permit or by using the services of a physician anesthesiologist, CRNA, an Oregon licensed dental hygienist or another dentist to administer anesthesia, a licensee consents to in-office evaluations by the Oregon Board of Dentistry, to assess competence in central nervous system anesthesia and to determine compliance with rules of the Board.

(2) The in-office evaluation may include, but is not limited to:

(a) Observation of one or more cases of anesthesia to determine the appropriateness of technique and adequacy of patient evaluation and care;

(b) Inspection of facilities, equipment, drugs and records; and

(c) Confirmation that personnel are adequately trained, hold a current BLS for Healthcare Providers certificate, or its equivalent, and are competent to respond to reasonable emergencies that may occur during the administration of anesthesia or during the recovery period.

(3) The evaluation shall be performed by a team appointed by the Board and shall include:

(a) A permit holder who has the same type of license as the licensee to be evaluated and who holds a current anesthesia permit in the same class or in a higher class than that held by the licensee being evaluated.

(b) A member of the Board's Anesthesia Committee; and

(c) Any licensed dentist, deemed appropriate by the Board President, may serve as team leader and shall be responsible for organizing and conducting the evaluation and reporting to the Board.

(4) The Board shall give written notice of its intent to conduct an office evaluation to the licensee to be evaluated. Licensee shall cooperate with the evaluation team leader in scheduling the evaluation which shall be held no sooner than 30 days after the date of the notice or later than 90 days after the date of the notice.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.250(7) & (10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16

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## Oregon Board of Naturopathic Medicine
## Chapter 850

**Rule Caption:** Amends and updates the formulary compendium in 850-060-0226

**Adm. Order No.:** OBNM 5-2015

**Filed with Sec. of State:** 8-28-2015

**Certified to be Effective:** 8-28-15

**Notice Publication Date:** 5-1-2015

**Rules Amended:** 850-060-0226

**Subject:** In OAR 850-060-0226 the amended language will:

Removes the restriction (8)(c) "does not include Barbiturates."

Barbiturates for anticonvulsant purposes only will be allowed. Other uses such as anxiolytics, sedatives, or hypnotics are still restricted per (8)(f).

Removes the restriction in (8)(d)(B) "...to include only the following: Atypical antipsychotics."

Corrects the spelling of (3)(f) Mercaptopurine; (26)(a)(B) Dimethyl Fumarate and other spelling errors that are found.

**Rules Coordinator:** Anne Walsh—(971) 673-0193

**850-060-0226**

**Formulary Compendium Classifications**

The Formulary Council has approved the following pharmacologic-therapeutic classifications in addition to drugs previously approved by the Formulary Council and listed in 850-060-0225. This listing does not supersede the education and training requirement established in 850-060-0212 for administration of IV agents. The Formulary Council may consider new agents, substances and pharmacologic-therapeutic classifications for addition to this list.

(1) Antihistamine Drugs;
(a) First Generation Antihistamine Drugs;
(A) Ethanolamine Derivatives;
(B) Ethylenediamine Derivatives;
(C) Phenothiazine Derivatives;
(D) Piperazine Derivatives;
(E) Propylamine Derivatives;
(F) Miscellaneous Derivatives;
(b) Second Generation Antihistamines.
(2) Anti-Infective Agents;
(a) Antihelmintics;
(b) Antibacterials;
(A) Aminoglycosides;
(B) Cephalosporins;
(i) First Generation Cephalosporins;
(ii) Second Generation Cephalosporins;
(iii) Third Generation Cephalosporins;
(iv) Fourth Generation Cephalosporins.
(C) Miscellaneous ß-Lactams;
(i) Carbacephems;
(ii) Carbapenems;
(iii) Cephamycins;
(iv) Monobactams.
(D) Chloramphenicol;
(E) Macrolides.
(i) Erythromycins;
(ii) Ketolides;
(iii) Other Macrolides.
(F) Penicillins;
(i) Natural Penicillins;
(ii) Aminopenicillins;
(iii) Penicillinase-resistant Penicillins;
(iv) Extended-spectrum Penicillins.
(G) Quinolones;
(H) Sulfonamides;
(I) Tetracyclines: Glycylcyclines;
(J) Antibacterials, Miscellaneous.
(i) Aminocyclitols;
(ii) Bacitracins;
(iii) Cyclic Lipopeptides;
(iv) Glycopeptides;
(v) Lincomycins;
(vi) Oxazolidinones;
(vii) Polymyxins;
(viii) Rifamycins;
(ix) Streptogramins;
(c) Antifungals;
(A) Allylamines;
(B) Azoles;
(C) Echinocandins;
(D) Polyenes;
(E) Pyrimidines;
(F) Antifungals, Miscellaneous.
(d) Antimycobacterials;
(A) Antituberculosis Agents;
(B) Antimycobacterials, Miscellaneous.
(e) Antivirals;
(A) Adamantanes;
(B) Antiretrovirals;
(i) HIV Fusion Inhibitors;
(ii) HIV Protease Inhibitors;
(iii) Integrase Inhibitors;
(iv) Nonnucleoside Reverse Transcriptase Inhibitors;
(v) Nucleoside and Nucleotide Reverse Transcriptase Inhibitors
(C) Interferons;
(D) Monoclonal Antibodies;
(E) Neuraminidase Inhibitors;
(F) Nucleosides and Nucleotides;
(G) Antivirals, Miscellaneous;
(f) Antiprotozoals;
(A) Amebicides;
(B) Antimalarials;
(C) Antiprotozoals, Miscellaneous.
(3) Antineoplastic Agents (oral and topical only) limited to the following:
(a) 5FU;
(b) Anastrozole;
(c) Letrozole;
(d) Mechlorethamine;
(e) Megestrol;
(f) Mercaptopurine;
(g) Methotrexate;
(h) Tamoxifen;
(i) Tretinoin.
(4) Autonomic Drugs;
(a) Parasympathomimetic (Cholinergic) Agents;
(b) Anticholinergic Agents: Antimuscarinics/ Antispasmodics;
(c) Sympathomimetic (Adrenergic) Agents;
(A) a-Adrenergic Agonists;
(B) ß- Adrenergic Agonists;
(i) Non-selective ß- Adrenergic Agonists;
(ii) Selective ß1- Adrenergic Agonists;
(iii) Selective ß2- Adrenergic Agonists;
(C) a-And ß-Adrenergic Agonists;
(d) Sympatholytic (Adrenergic Blocking) Agents;
(e) Skeletal Muscle Relaxants;
(A) Centrally Acting Skeletal Muscle Relaxants;
(B) Direct-acting Skeletal Muscle Relaxants;
(C) GABA-derivative Skeletal Muscle Relaxants;
(D) Neuromuscular Blocking Agents;
(E) Skeletal Muscle Relaxants, Miscellaneous.
(f) Autonomic Drugs, Miscellaneous.
(5) Blood Derivatives.
(6) Blood Formation, Coagulation, and Thrombosis;
(a) Antianemia Drugs: Iron Preparations;
(b) Antithrombotic Agents;
(A) Anticoagulants;
(i) Coumarin Derivatives;
(ii) Direct Thrombin Inhibitors;
(iii) Heparins;
(iv) Anticoagulants, Miscellaneous.
(B) Platelet-reducing Agents;
(C) Platelet-aggregation Inhibitors;
(D) Thrombolytic Agents;
(c)Hematopoietic Agents;
(d) Hemorrheologic Agents;
(e) Antihemorrhagic Agents;
(A) Antiheparin Agents;
(B) Hemostatics.
(7) Cardiovascular Drugs;
(a) Cardiac Drugs;
(A) Antiarrhythmic Agents;
(i) Class Ia Antiarrhythmics;
(ii) Class Ib Antiarrhythmics;
(iii) Class Ic Antiarrhythmics;
(iv) Class III Antiarrhythmics;
(v) Class IV Antiarrhythmics.
(B) Cardiotonic Agents;
(C) Cardiac Drugs, Miscellaneous.
(b) Antilipemic Agents;

(A) Bile Acid Sequestrants;
(B) Cholesterol Absorption Inhibitors;
(C) Fibric Acid Derivatives;
(D) HMG-CoA Reductase Inhibitors;
(E) Antilipemic Agents, Miscellaneous.
(c) Hypotensive Agents;
(A) Calcium-Channel Blocking Agents;
(B) Central a-Agonists;
(C) Direct Vasodilators;
(D) Peripheral Adrenergic Inhibitors.
(d) Vasodilating Agents;
(A) Nitrates and Nitrites;
(B) Phosphodiesterase Inhibitors;
(C) Vasodilating Agents, Miscellaneous.
(e) Sclerosing Agents;
(f) a-Adrenergic Blocking Agents;
(g) ß-Adrenergic Blocking Agents;
(h) Calcium-Channel Blocking Agents;
(A) Dihydropyridines;
(B) Calcium-Channel Blocking Agents, Miscellaneous;
(i) Renin-Angiotensin-Aldosterone System Inhibitors;
(A) Angiotensin-Converting Enzyme Inhibitors;
(B) Angiotensin II Receptor Antagonists;
(C) Mineralocorticoid (Aldosterone) Receptor Antagonists;
(D) Renin Inhibitors.
(8) Central Nervous System Agents;
(a) Analgesics and Antipyretics;
(A) Nonsteroidal Anti-inflammatory Agents;
(i) Cyclooxygenase-2 (COX-2) Inhibitors;
(ii) Salicylates;
(iii) Other Nonsteroidal Anti-inflammatory Agents;
(B) Opiate Agonists;
(C) Opiate Partial Agonists;
(D) Analgesics and Antipyretics, Miscellaneous.
(b) Opiate Antagonists;
(c) Anticonvulsants;
(A) Benzodiazepines;
(B) Hydantoins;
(C) Succinimides;
(D) Anticonvulsants, Miscellaneous.
(d) Psychotherapeutic Agents;
(A) Antidepressants;
(i) Monoamine Oxidase Inhibitors;
(ii) Selective Serotonin- and Norepinephrine-reuptake Inhibitors;
(iii) Selective Serotonin- Reuptake Inhibitors;
(iv) Serotonin Modulators;
(v) Tricyclics and Other Norepinephrine-reuptake Inhibitors.
(vi) Antidepressants, Miscellaneous.
(B) Antipsychotics.
(e) Anorexigenic Agents and Respiratory and Cerebral Stimulants.
(A) Amphetamines.
(B) Anorexigenic Agents and Respiratory and Cerebral Stimulants, Miscellaneous.
(f) Anxiolytics, Sedatives, and Hypnotics, does not include Barbiturates;
(A) Benzodiazepines;
(B)(i) Anxiolytics, Seditives, and Hypnotics; Miscellaneous;
(ii) Nitrous oxide;
(g) Antimanic Agents;
(h) Antimigraine Agents: Selective Serotonin Agonists;
(i) Antiparkinsonian Agents;
(A) Adamantanes;
(B) Anticholinergic Agents;
(C) Catechol-O-Methyltransferase (COMT) Inhibitors;
(D) Dopamine Precursors;
(E) Dopamine Receptor Agonists;
(i) Ergot-derivative Dopamine Receptor Agonists;
(ii) Non-ergot-derivative Dopamine Receptor Agonists;
(F) Monoamine Oxidase B Inhibitors;
(j) Central Nervous System Agents, Miscellaneous.
(9) Contraceptives (foams, devices).
(10) Diagnostic Agents.
(11) Disinfectants (for Agents used on objects other than skin).
(12) Electrolytic, Caloric, and Water Balance;
(a) Acidifying Agents;
(b) Alkalinizing Agents;
(c) Ammonia Detoxicants;
(d) Replacements Preparations;
(e) Ion-Removing Agents;
(A) Calcium-removing Agents;
(B) Potassium-removing Agents;
(C) Phosphate-removing Agents;
(D) Other Ion-removing Agents;
(f) Caloric Agents;
(g) Diuretics;
(A) Loop Diuretics;
(B) Osmotic Diuretics;
(C) Potassium-sparing Diuretics;
(D) Thiazide Diuretics;
(E) Thiazide-like Diuretics;
(F) Diuretics, Miscellaneous;
(h) Irrigation Solutions;
(i) Uricosuric Agents.
(13) Enzymes.
(14) Respiratory Tract Agents;
(a) Antihistamines;
(b) Antitussives;
(c) Anti-inflammatory Agents;
(A) Leukotriene Modifiers;
(B) Mast-cell Stabilizers;
(d) Expectorants;
(e) Pulmonary Surfactants;
(f) Respiratory Agents, Miscellaneous.
(15) Eye, Ear, Nose, and Throat (EENT) Preparations;
(a) Antiallergic Agents;
(b) Anti-infectives;
(A) Antibacterials;
(B) Antifungals;
(C) Antivirals;
(D) Anti-infectives, Miscellaneous.
(c) Anti-inflammatory Agents;
(A) Corticosteroids;
(B) Nonsteroidal Anti-inflammatory Agents;
(C) Anti-inflammatory Agents, Miscellaneous.
(d) Local Anesthetics;
(e) Mydriatics;
(f) Mouthwashes and Gargles;
(g) Vasoconstrictors;
(h) Antiglaucoma Agents;
(A) a-Adrenergic Agonists;
(B) ß-Adrenergic Agents;
(C) Carbonic Anhydrase Inhibitors;
(D) Miotics;
(E) Prostaglandin Analogs;
(i) EENT Drugs, Miscellaneous.
(16) Gastrointestinal Drugs;
(a) Antacids and Adsorbents;
(b) Antidiarrhea Agents;
(c) Antiflatulents;
(d) Cathartics and Laxatives;
(e) Cholelitholytic Agents;
(f) Emetics;
(g) Antiemetics;
(A) Antihistamines;
(B) 5-HT3 Receptor Antagonists;
(C) Antiemetics, Miscellaneous.
(h) Antiulcer Agents and Acid Suppressants;
(A) Histamine H2-Antogonists;
(B) Prostaglandins;
(C) Protectants;
(D) Proton-pump Inhibitors;
(i) Prokinetic Agents;
(j) Anti-inflammatory Agents;
(k) GI Drugs, Miscellaneous.
(17) Gold Compounds.
(18) Heavy Metal Antagonists.
**NOTE:** IV administration requires education and training compliance with 850-060-0212.
(19) Hormones and Synthetic Substitutes;
(a) Adrenals;
(b) Androgens;

(c) Contraceptives;
(d) Estrogens and Antiestrogens;
(A) Estrogens;
(B) Estrogen Agonists-Antiagonists.
(e) Gonadotropins;
(f) Antidiabetic Agents;
(A) a-Glucosidase Inhibitors;
(B) Amylinomimetics;
(C) Biguanides;
(D) Dipeptidyl Peptidase (DDP-4) Inhibitors;
(E) Incretin Mimetics;
(F) Insulins;
(G) Meglitinides;
(H) Sulfonylureas;
(I) Thiazolidinediones;
(J) Miscellaneous.
(g) Antihypoglycemic Agents: Glycogenolytic Agents;
(h) Parathyroid;
(i) Pituitary;
(j) Somatotropin Agonists and Antagonists;
(A) Somatotropin Agonists;
(B) Somatotropin Antagonists;
(k) Progestins;
(l) Thyroid and Antithyroid Agents;
(A) Thyroid Agents;
(B) Antithyroid Agents.
(20) Local Anesthetics.
(21) Oxytocics, except for Mifepristone.
(22) Serums, Toxoids, and Vaccines;
(a) Serums;
(b) Toxoids;
(c) Vaccines.
(23) Skin and Mucous Membrane Agents;
(a) Anti-infectives;
(A) Antibacterials;
(B) Antivirals;
(C) Antifungals;
(i) Allylamines;
(ii) Azoles;
(iii) Benzylamines;
(iv) Hydroxypyridones;
(v) Polyenes;
(vi) Thiocarbamates;
(vii) Antifungals, Miscellaneous.
(D) Scabicides and Pediculicides;
(E) Local Anti-infectives, Miscellaneous.
(b) Anti-inflammatory Agents;
(c) Antipruritics and Local Anesthetics;
(d) Astringents;
(e) Cell Stimulants and Proliferants;
(f) Detergents;
(g) Emollients, Demulcents, and Protectants;
(h) Keratolytic Agents;
(i) Keratoplastic Agents;
(j) Depigmenting and Pigmenting Agents;
(A) Depigmenting Agents;
(B) Pigmenting Agents;
(k) Sunscreen Agents;
(l) Skin and Mucous Membrane Agents, Miscellaneous.
(24) Smooth Muscle Relaxants;
(a) Gastrointestinal Smooth Muscle Relaxants;
(b) Genitourinary Smooth Muscle Relaxants;
(c) Respiratory Smooth Muscle Relaxants.
(25) Vitamins and Minerals.
(26) Miscellaneous Therapeutic Agents;
(a) Alcohol Deterrents limited to the following:
(A) Acamprosate;
(B) Disulfiram;
(C) Naltrexone.
(b) 5-a Reductase Inhibitors;
(c) Antidotes;
(d) Antigout Agents;
(e) Biologic Response Modifiers
(A) Interferons;
(B) Dimethyl Fumarate;
(f) Bone Resorption Inhibitors;
(g) Cariostatic Agents;
(h) Complement Inhibitors;
(i) Disease-Modifying Antirheumatic Agents;
(j) Gonadotropin-releasing Hormone Antagonists;
(k) Immunosuppressive Agents;
(l) Other Miscellaneous Therapeutic Agents limited to the following:
(A) Alfuzosin Hydrochloride;
(B) Drotrecogin Alfa (Activated);
(C) Lanreoytide Acetate;
(D) Rilonacept;
(E) Sapropterin Dihydrochloride;
(F) Tamsulosin Hydrochloride.

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.145
Hist.: BNE 1-2002, f. & cert. ef. 2-19-02; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03; BNE 5-2003, f. & cert. ef. 12-5-03; BNE 5-2004, f. & cert. ef. 6-10-04; Renumbered from 850-010-0226, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 9-2005, f. & cert. ef 12-12-05; BNE 4-2006, f. & cert. ef. 12-11-06; BNE 3-2007, f. & cert. ef. 6-12-07; BNE 1-2008, f. & cert. ef. 2-19-08; BNE 2-2008, f. & cert. ef. 3-21-08; BNE 6-2008, f. & cert. ef. 6-11-08; BNE 7-2008, f. & cert. ef. 12-8-08; BNE 2-2009, f. & cert. ef. 6-17-09; BNE 7-2009, f. 12-14-09, cert. ef. 1-1-10; OBNM 5-2010, f. & cert. ef. 6-30-10; OBNM 7-2010, f. & cert. ef. 12-13-10; OBNM 2-2011, f. & cert. ef. 4-12-11; OBNM 4-2011, f. & cert. ef. 6-15-11; OBNM 3-2012, f. & cert. ef. 6-15-12; OBNM 1-2014, f. & cert. ef. 4-9-14; OBNM 3-2014, f. & cert. ef. 7-10-14; OBNM 5-2015, f. & cert. ef. 8-28-15

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## Oregon Business Development Department
## Chapter 123

**Rule Caption:** These rules relate to the Beginning and Expanding Farmer Loan Program ("Aggie Bonds").
**Adm. Order No.:** OBDD 7-2015
**Filed with Sec. of State:** 9-1-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 123-052-1500
**Rules Repealed:** 123-052-1500(T)
**Subject:** HB 3239 passed the 2015 legislative session updating the definition of "lender" to include seller financing. As a result of this change in statute, we are amending our Requirements for Lenders to include language for seller financing.
**Rules Coordinator:** Mindee Sublette—(503) 986-0036

**123-052-1500**
**Requirements for Lenders**

(1) A lender must either be:

(a) An insured institution, as defined by ORS 706.008, that is authorized to do business in Oregon and that makes loans to persons engaging in farming or similar operations;

(b) An "Accredited Investor" (AI) as defined under Section 3(a)(2) of the Securities Act of 1933;

(c) A "Qualified Institutional Buyer" (QIB) as defined under Rule 144A of the Securities Act of 1933;

(d) A "Sophisticated Investor" (SI) as defined in Rule 501 of Regulation D under the Securities Act of 1933 and as further described in 17 CFR 230.506(b)(2)(ii) as one who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.; or

(e) An institution organized and existing under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)

(2) The lender must represent in writing that it is an insured institution, AI, QIB, SI, or an institution organized and existing under the Farm Credit Act of 1971, pursuant to 123-052-1500(1), that the aggie bonds are being acquired for investment, and that the lender intends to hold the aggie bonds for the lender's own account and not with a view to, or for resale.

(3) Under no circumstances can a lender be a substantial user of the Financed Property or related to a substantial user of that property. For this purpose "related" means a Related Person within the meaning of OAR 123-052-1100(22) but shall also include a partnership and any of its partners (and their spouses and minor children), and an S corporation and each of its shareholders (and their spouses and minor children).

(4) The Lender must execute a Financing Agreement in substantially the form and with the substance of the form of Financing Agreement provided by the Department, or must use a form that is specifically approved in advance and in writing by the Department. The Lender must make loans under Loan Agreements that are substantially in the form and with the substance of the form of Loan Agreement provided by the Department, or must

use a form that is specifically approved in advance and in writing by the Department.

(5) Seller financing is allowed, subject to the provisions of the Code, State Treasurer, OAR 123-052, including the Securities Act of 1933.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 3-2015, f. & cert. ef. 2-24-15; OBDD 4-2015(Temp), f. & cert. ef. 7-13-15 thru 1-8-16; OBDD 7-2015, f. & cert. ef. 9-1-15

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**Rule Caption:** These rules relate to the Oregon Low Income Community Jobs Initiative.
**Adm. Order No.:** OBDD 8-2015
**Filed with Sec. of State:** 9-1-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 123-630-0000, 123-630-0030, 123-630-0050
**Rules Repealed:** 123-630-0000(T), 123-630-0030(T), 123-630-0050(T)
**Subject:** In the 2013 legislative session, HB 2763 raised the maximum amount of qualified low-income investments that can be made in a qualified low-income business from $4 million to $8 million. This rule amendment provides for clearer language around the additional use of credit to a community development entity who has already received a credit up to $4 million, allowing for the additional investments up to the allowable maximum of $8 million on or after January 1, 2014. The amended rule requires the community development entity to submit a new project summary. In addition, the rules have been amended to make necessary contact information for the investor who will be making the investments in the program.
**Rules Coordinator:** Mindee Sublette—(503) 986-0036

**123-630-0000**
**Purpose**

This division of administrative rules specifies procedures and criteria necessary to administer processes under the Oregon Low Income Community Jobs Initiative for the certification of a qualified equity investment in order to receive a credit allowance for taxes otherwise due under ORS chapter 316, 317 or 318.

Stat. Auth.: ORS 285C.650 - 285C.656 & 315.526 – 315.536
Stats. Implemented: ORS 285C.650 - 285C.656 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12, OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14; OBDD 2-2015(Temp), f. & cert. ef. 2-12-15 thru 8-10-15; Administrative correction, 8-18-15; OBDD 8-2015, f. & cert. ef. 9-1-15

**123-630-0030**
**Eligibility**

(1) The following conditions and/or criteria must exist for a taxpayer to be eligible for the credit:

(a) A qualified community development entity that issues a debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the sum of the cash interest payments and the cumulative operating income, as defined in the regulations promulgated under section 45D of the Internal Revenue Code, of the qualified community development entity for the same period. This limitation shall only apply to long-term debt securities issued by a qualified community development entity that are designated as qualified equity investments and shall not apply to other debt of the qualified community development entity. Neither this paragraph nor the definition of "long-term debt security" provided in ORS 315.529 in any way limits the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code.

(b) A business is considered a qualified active low-income community business for the duration of a qualified community development entity's investment in or loan to the business if it is reasonable to expect that at the time of the qualified community development entity's investment in or loan to a qualified active low-income community business, the business will continue throughout the duration of the investment in or loan to the business.

(c) A qualified equity investment must be designated a qualified equity investment by the qualified community development entity and be certified by the department.

(d) Prior to January 1, 2014, the maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest substantially all of the qualified equity investment required by OAR 123-630-0010(7)(b) in qualified active low-income community businesses in this state is $4 million, whether made by one or several qualified community development entities.

(e) On or after January 1, 2014, the maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest at least the percentage of the qualified equity investment required by OAR 123-630-0010(7)(b) in qualified active low-income community businesses in this state is $8 million, whether made by one or several qualified community development entities. Qualified active low-income community businesses that received qualified low-income investments of up to $4 million prior to January 1, 2014, may receive additional qualified low-income investments, up to a total of $8 million, on or after January 1, 2014, only if the community development entity first submits a project summary demonstrating that the additional investment complies with the requirements of the applicable statutes and rules.

(f) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a tax credit relating to that qualified equity investment for each applicable credit allowance date.

(g) No more than 40% of the total project costs that are paid for by the qualified low-income community investment may be for working capital, financing and other fees and other soft costs.

(2) A taxpayer claiming a credit may not claim any other credit under ORS 315 or 285C during the same tax year based on activities related to the same qualified active low-income community business.

Stat. Auth.: ORS 285C.650 - 285C.656 & 315.526 - 315.536
Stats. Implemented: ORS 285C.650-285C.656 & 315.526 -315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14; OBDD 2-2015(Temp), f. & cert. ef. 2-12-15 thru 8-10-15; Administrative correction, 8-18-15; OBDD 8-2015, f. & cert. ef. 9-1-15

**123-630-0050**
**Application and Fees**

(1) An applicant seeking to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for a tax credit under ORS 285C.650 and OAR 123-630-0080 must submit an application to the department on a form that the department provides. A complete application must include all of the following:

(a) The entity's name, address, tax identification number and evidence of certification as a qualified community development entity.

(b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund that includes the State of Oregon in its service area.

(c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund.

(d) A description of the proposed purchase price, structure and purchaser of the equity investment or long-term debt security.

(e) The name and tax identification number of any person eligible to claim a tax credit, under ORS 285C.650–285C.656, and ORS 315.526–315.536, allowed as a result of the certification of the qualified equity investment.

(f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment on a form provided by the department. If the information described in the previous sentence is not submitted with the application, the applicant shall, at least 20 days prior to the date of the applicant proposes to make a qualified low-income community investment, submit to the department for review and approval of the qualified low-income community investment, an updated qualified low-income community investment certification on a form provided by the department. The information will include but is not limited to the following for each proposed qualified low-income community investment:

(A) Location;
(B) Sources and uses of funds;
(C) Impacts to communities;
(D) Revenues;
(E) Number of jobs created and/or retained; and
(F) Economic impacts

(G) Name and contact information for: the investor making the qualified equity investment(s), the investor making the qualified low-income community investment(s), and all qualified active low-income community business receiving the qualified low-income community investment(s).

(g) A nonrefundable application fee of $20,000. This fee shall be paid to the department and shall be required for each application submitted.

(2) In addition to what is required by the application or in this division of administrative rules, the applicant will submit any information requested by the department for purposes of evaluating the application.

(3) A qualified community development entity submitting an application for certification of an additional equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 315.533, must demonstrate to the satisfaction of the department that all previous equity investments and long-term debt securities certified as qualified equity investments have been fully committed and used in compliance with the requirements of the Oregon Low Income Community Jobs Initiative.

(4) A qualified community development entity that is certified under ORS 285C.650 and OAR 123-630-0080 shall pay an annual evaluation fee of $1,000 to the department with the submission of each report described in OAR 123-630-0070.

(5) Applications will be processed on a first come, first serve basis.

(6) Supplemental documentation or attachments submitted to the department by the applicant along with the application form and required materials are not considered part of the application and will be considered to be separate and distinct information submitted to the department. The department will provide approval or consent only with regard to those submissions for which approval or consent is required from the department by statute or rule. If the department does not provide explicit approval in writing for any supplemental information or documentation submitted by the applicant, then the information or documentation is not approved.

Stat. Auth.: ORS 285C.650 & 315.526 - 315.536
Stats. Implemented: ORS 285C.650 & 315.526 - 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14; OBDD 2-2015(Temp), f. & cert. ef. 2-12-15 thru 8-10-15; Administrative correction, 8-18-15; OBDD 8-2015, f. & cert. ef. 9-1-15

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

**Rule Caption:** Permanent amendments to 309-114 for obtaining informed consent to treatment by patients in state institutions.
**Adm. Order No.:** MHS 5-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 8-28-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 309-114-0000, 309-114-0005, 309-114-0010, 309-114-0015, 309-114-0020
**Subject:** These rules prescribe standards and procedures to be observed by personnel of state institutions operated by Division in obtaining informed consent to significant procedures, as defined by these rules, from patients of such state institutions. These rules do not apply to routine medical procedures. Administration of significant procedures without informed consent is permitted as described in OAR 309-114-0010(1)(b). The purpose of these rules is to assure that the rights of patients are protected with respect to significant procedures.
**Rules Coordinator:** Nola Russell—(503) 945-7652

**309-114-0000**
**Purpose**

Purpose. These rules prescribe standards and procedures to be observed by personnel of state institutions operated by Division in obtaining informed consent to significant procedures, as defined by these rules, from patients of such state institutions. These rules do not apply to routine medical procedures. Administration of significant procedures without informed consent is permitted as described in OAR 309-114-0010(1)(b). The purpose of these rules is to assure that the rights of patients are protected with respect to significant procedures.

Stat. Auth.: ORS 179.040
Stats. Implemented: ORS 179.321, 426.070 & 426.385
Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 12-2013(Temp), f. & cert. ef. 10-29-13 thru 4-27-14; MHS 9-2014, f. & cert. ef. 4-24-14; MHS 5-2015, f. & cert. ef. 8-28-15

**309-114-0005**
**Definitions**

As used in these rules:

(1) "Authorized Representative" or "representative" means an individual who is an employee of the system described in ORS 192.517(1) and who may represent a party in a contested case hearing; the representative must be supervised by an attorney that is licensed by the Oregon State Bar and employed by the same system described in 192.517(1).

(2) "Chief Medical Officer" means the physician designated by the superintendent of each state institution pursuant to ORS 179.360(1)(f) who is responsible for the administration of medical treatment at each state institution.

(3) "Committed" or "Commitment" means an individual is admitted under ORS 161.327, 161.328, 161.370, 426.701, 426.130, 427.215 or 426.220 when the individual's guardian or health care representative is unavailable or unable to consent

(4) "Dangerousness" means either:

(a) A substantial risk that physical harm will be inflicted by an individual upon his own person, as evidenced by threats, including verbal threats or attempts to commit suicide or inflict physical harm on him or herself. Evidence of substantial risk may include information about historical patterns of behavior that resulted in serious harm being inflicted by an individual upon him or herself as those patterns relate to the current risk of harm;

(b) A substantial risk that physical harm will be inflicted by an individual upon another individual, as evidenced by recent acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of substantial risk may include information about historical patterns of behavior

(5) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(6) "Guardian" means a legal guardian who is an individual appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(7) "Health Care Representative" means a person who has authority to make health care decisions for a patient.

(8) "Legally Incapacitated" means having been found by a court of law under ORS 426.295 to be unable, without assistance, to properly manage or take care of one's personal affairs, or who is a person under guardianship.

(9) "Material Risk." A risk is material if it may have a substantial adverse effect on the patient's psychological or physical health, or both. Tardive dyskinesia is a material risk of neuroleptic medication. Other risks include, but are not limited to raised blood pressure, onset of diabetes and metabolic changes.

(10) "Medication Educator" means a Qualified Mental Health Professional (QMHP) who provides information about the proposed significant procedures to patients.

(11) "Patient" means an individual who is receiving care and treatment in a state institution for the mentally ill.

(12) Patient with a "grave disability" means a patient who:

(a) Is in danger of serious physical harm to his or her health or safety absent the proposed significant procedures; or

(b) Manifests severe deterioration in routine functioning evidenced by loss of cognitive or volitional control over his or her actions which is likely to result in serious harm absent the proposed significant procedures.

(13) "Person Committed to the Division" or "Person" means an individual committed under ORS 161.327, 161.328, 426.701, 426.220, 161.370, 426.130, or 427.215.

(14) "Psychiatric Nurse Practitioner," means a registered nurse with prescription authority who independently provides health care to clients with mental and emotional needs or disorders.

(15) "Qualified Mental Health Professional" (QMHP) means any individual meeting the following minimum qualifications as documented by the state institution:

(a) Graduate degree in psychology;

(b) Bachelor's or graduate degree in nursing and licensed by the State of Oregon;

(c) Graduate degree in social work or counseling;

(d) Graduate degree in a behavioral science field;

(e) Graduate degree in recreational art, or music therapy;

(f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; or

(g) Bachelor's or graduate degree in a relevant area.

(16) "Routine Medical Procedure" means a procedure customarily administered by facility medical staff under circumstances involving little or no risk of causing injury to a patient including, but not limited to physical examinations, blood draws, influenza vaccinations, tuberculosis (TB) testing, human immunodeficiency virus (HIV) testing and hygiene.

(17) "Significant Procedure" means a diagnostic or treatment modality and all significant procedures of a similar class that pose a material risk of substantial pain or harm to the patient such as, but not limited to psychotropic medication and electro-convulsive therapy. Significant procedures do not include routine medical procedures.

(18) "Significant Procedures of a Similar Class" means a diagnostic or treatment modality that presents substantially similar material risks as the significant procedure listed on the treating physician's or psychiatric nurse practitioner's informed consent form and is generally considered in current clinical practice to be a substitute treatment or belong to the same class of medications as the listed significant procedure.

(a) For purposes of these rules, medications listed in subsections 14(a)(A) through 14(a)(F) of this rule will be considered the same or similar class of medication as other medications in the same subsection:

(A) All medications used under current clinical practice as antipsychotic medications including typical and atypical antipsychotic medications;

(B) All medications used under current clinical practice as mood stabilizing medications;

(C) All medications used under current clinical practice as antidepressants;

(D) All medications used under current clinical practice as anxiolytics;

(E) All medications used under current clinical practice as psychostimulants; and

(F) All medications used under current clinical practice as dementia cognitive enhancers.

(b) Significant procedures of the same or similar class do not need to be specifically listed on the treating physician's or psychiatric nurse practitioner's form.

(19) "State Institution" or "Institution" means all Oregon State Hospital campuses and the Blue Mountain Recovery Center.

(20) "Superintendent" means the executive head of the state institution listed in section (18) of this rule, or the superintendent's designee.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 179.321, 183.458, 426.070 & 426.385

Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHD 3-1988, f. 4-12-88, (and corrected 5-17-88), cert. ef. 6-1-88; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; MHS 2-2009(Temp), f. & cert. ef. 4-2-09 thru 7-22-09; MHS 3-2009, f. & cert. ef. 6-26-09; MHS 6-2009, f. & cert. ef. 12-28-09; MHS 5-2010(Temp), f. & cert. ef. 3-12-10 thru 9-8-10; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 13-2010(Temp), f. & cert. ef. 11-19-10 thru 5-18-11; MHS 4-2011, f. & cert. ef. 5-19-11; MHS 15-2014(Temp), f. & cert. ef. 12-1-14 thru 5-29-15; MHS 2-2015(Temp), f. & cert. ef. 4-24-15 thru 10-20-15; MHS 5-2015, f. & cert. ef. 8-28-15

**309-114-0010**

**General Policy on Obtaining Informed Consent to Treatment and Training**

(1)(a) Basic Rule. Patients, or parents or guardians of minors, or guardians on behalf of legally incapacitated patients, may refuse any significant procedure and may withdraw at any time consent previously given to a significant procedure. Any refusal or withdrawal or withholding of consent shall be documented in the patient's record.

(b) Personnel of a state institution shall not administer a significant procedure to a patient unless written informed consent is obtained from or on behalf of the patient in the manner prescribed in these rules, except as follows:

(A) Administration of significant procedures to legally incapacitated patients as provided in section (6) of this rule;

(B) Administration of significant procedures without informed consent in emergencies under OAR 309-114-0015;

(C) Involuntary administration of significant procedures with good cause to persons committed to the Division under OAR 309-114-0020; or

(D) Involuntary administration of significant procedures pursuant to a valid court order.

(2) Capacity of the patient: In order to consent to, or refuse, withhold, or withdraw consent to significant procedures, the patient must have the capacity to make a decision concerning acceptance or rejection of a significant procedure, as follows:

(a) Unless adjudicated legally incapacitated for all purposes or for the specific purpose of making treatment decisions, a patient shall be presumed competent to consent to, or refuse, withhold, or withdraw consent to significant procedures. A person committed to the Division may be deemed unable to consent to or refuse, withhold, or withdraw consent to a significant procedure only if the person currently demonstrates an inability to reasonably comprehend and weigh the risks and benefits of the proposed procedure, alternative procedures, or no treatment at all including, but not limited to, all applicable factors listed in (3)(a) of this rule. The patient's current inability to provide informed consent is to be documented in the patient's record and supported by the patient's statements or behavior; and may be evidenced in the treating physician's or psychiatric nurse practitioner's informed consent form, the evaluation form by the independent examining physician and forms approving or disapproving the procedure by the superintendent or chief medical officer;

(b) A person committed to the Division shall not be deemed unable to consent to or refuse, withhold, or withdraw consent to a significant procedure merely by reason of one or more of the following facts:

(A) The person has been involuntarily committed to the Division;

(B) The person has been diagnosed as mentally ill;

(C) The person has disagreed or now disagrees with the treating physician's or psychiatric nurse practitioner's diagnosis; or

(D) The person has disagreed or now disagrees with the treating physician's or psychiatric nurse practitioner's recommendation regarding treatment.

(c) If a court has determined that a patient is legally incapacitated, then consent shall be sought from the legal guardian.

(3) Procedures for Obtaining Informed Consent and Information to be Given: The person from whom informed consent to a significant procedure is sought shall be given information, orally and in writing, the substance of which is to be found on the treating physician's or psychiatric nurse practitioner's informed consent form. In the case of medication, there shall be attached a preprinted information sheet on the risks and benefits of the medication listed on the treating physician's or psychiatric nurse practitioner's form. All written materials under this rule will be provided in English. However, if the institution has reason to believe a patient has limited English language proficiency or the patient requests it, then the institution will make reasonable accommodations to provide the patient with meaningful access to the information, such as providing the patient with copies of the materials in the patient's native language if the materials are readily available in that language or providing the opportunity to have an interpreter orally translate written materials into the patient's native language. Specific information about significant procedures of a similar class will not be provided to or discussed with the patient.

(a) The information shall describe:

(A) The nature and seriousness of the patient's mental illness or condition;

(B) The purpose of the significant procedures listed on the treating physician's or psychiatric nurse practitioner's form, the intended outcome and the risks and benefits of the procedures;

(C) Any alternatives, particularly alternatives offering less material risks to the proposed significant procedure that are reasonably available and reasonably comparable in effectiveness;

(D) If the proposed significant procedure is medication, facility medical staff shall give the name, dosage range, and frequency of administration of the medication listed on the treating physician's or psychiatric nurse practitioner's form, and shall explain the material risks of the medication at that dosage range.

(E) The side effects of the intended medication or electro-convulsive therapy;

(F) The predicted medical, psychiatric, social, or legal consequences of not accepting the significant procedure or any comparable procedure, including any potential risk the patient represents to the health and safety of the patient, or others, which may include, but is not limited to, a consideration of the patient's history of violence and its relationship to mental health treatment if he or she does not receive the significant procedure;

(G) That consent may be refused, withheld or withdrawn at any time; and

(H) Any additional information concerning the proposed significant procedure requested by the patient.

(b) A medication educator shall assist by providing information to the patient that explains the proposed significant procedure, as described in subsection (3)(a)(B) and (E) of this rule;

(c) The treating physician or psychiatric nurse practitioner intending to administer a significant procedure shall document in the patient's chart that the information required in subsection (3)(a) of this rule was explained and that the patient, parent or guardian of a minor or guardian of a legally incapacitated patient explicitly consented, refused, withheld or withdrew

consent. The treating physician or psychiatric nurse practitioner may document this by completing the informed consent form and make it part of the patient's record.

(4) When discussing the significant procedure with the treating physician or psychiatric nurse practitioner and the medication educator, the patient may request additional information about the significant procedure pursuant to OAR 309-114-0010(3)(a)(H) and present additional information relevant to making his or her decision.

(5) Voluntary Consent: Consent to a proposed significant procedure must be given voluntarily, free of any duress or coercion. Subject to the provisions of OAR 309-114-0020, the decision to refuse, withhold or withdraw consent previously given shall not result in the denial of any other benefit, privilege, or service solely on the basis of refusing, withholding or withdrawing consent. A voluntary patient may be discharged from the institution if offered procedures are refused.

(6) Obtaining Consent with Respect to Legally Incapacitated Patients: A state institution may not administer a significant procedure to a legally incapacitated patient without the consent of the guardian, or, in the case of a minor, the parent or guardian, except in the case of an emergency under OAR 309-114-0015, where the institution has good cause to involuntarily administer a significant procedure under 309-114-0020, or pursuant to a valid court order. In order to prove good cause, the institution must prove 309-114-0020(1)(a) and (1)(d) in reference to the guardian and 309-114-0020(1)(b) and (1)(c) in reference to the patient.

(7) Reports of Progress: A patient, the parents or guardian of a minor patient, or the guardian of a legally incapacitated patient shall, upon request, be informed of the progress of the patient during administration of the significant procedure.

(8) These rules will be effective as of December 1, 2007 on all new orders for administration of significant procedures without informed consent. This includes new orders written after expiration of the previous order. This rule will be effective for existing, unexpired orders as of January 1, 2008, on a phased-in schedule that will accommodate as many new hearings as is practicable to schedule each week.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 179.321, 426.070 & 426.385
Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHD 3-1988, f. 4-12-88, (and corrected 5-17-88), cert. ef. 6-1-88; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; MHS 3-2009, f. & cert. ef. 6-26-09; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 12-2013(Temp), f. & cert. ef. 10-29-13 thru 4-27-14; MHS 9-2014, f. & cert. ef. 4-24-14; MHS 2-2015(Temp), f. & cert. ef. 4-24-15 thru 10-20-15; MHS 5-2015, f. & cert. ef. 8-28-15

**309-114-0015**
**Administration of Significant Procedures Without Informed Consent in Emergencies**

(1) An emergency exists if in the opinion of the chief medical officer or designee:

(a) Immediate action is required to preserve the life or physical health of the patient and it is impracticable to obtain informed consent as provided in OAR 309-114-0010; or

(b) Immediate action is required because the behavior of the patient creates a substantial likelihood of immediate physical harm to the patient or others in the institution and it is impracticable to obtain informed consent as provided in OAR 309-114-0010.

(2) If an emergency exists, the chief medical officer or designee may administer a significant procedure to a patient without obtaining prior informed consent in the manner otherwise required by these rules provided:

(a) The specific nature of each emergency and the procedure which was used to deal with the emergency are adequately documented in the patient's record and a form provided for emergency procedure is completed and placed in the patient's record;

(b) Reasonable effort shall be made to contact the parent or legal guardian prior to the administration of the significant procedure. If contact is not possible, notice shall be given to the parent or legal guardian as soon as possible;

(c) Within a reasonable period of time after an emergency procedure is administered, the treatment team shall review the treatment or training program and, if practicable, implement a treatment or training program designed to correct the behavior creating the emergency; and

(d) The administration of a significant procedure in an emergency situation does not allow the institution to administer these procedures, once the emergency has subsided, without obtaining informed consent.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.321, 426.070 & 426.385
Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHD 3-1988, f. 4-12-88, (and corrected 5-17-88), cert. ef. 6-1-88; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 2-2015(Temp), f. & cert. ef. 4-24-15 thru 10-20-15; MHS 5-2015, f. & cert. ef. 8-28-15

**309-114-0020**
**Involuntary Administration of Significant Procedures to Persons Committed to the Division with Good Cause**

(1) Good cause: Good cause exists to administer a significant procedure to a person committed to the Division without informed consent if in the opinion of the treating physician or psychiatric nurse practitioner after consultation with the treatment team, the following factors are satisfied:

(a) Pursuant to OAR 309-114-0010(2), the person is deemed unable to consent to, refuse, withhold or withdraw consent to the significant procedure. This determination must be documented on the treating physician's or psychiatric nurse practitioner's informed consent form and the independent examining physician's evaluation form. It must include the specific questions asked and answers given regarding the patient's ability to weigh the risks and benefits of the proposed treatment, alternative treatment and no treatment including, but not limited to all relevant factors listed in 309-114-0010(3)(a).

(b) The proposed significant procedure will likely restore or prevent deterioration of the person's mental or physical health, alleviate extreme suffering or save or extend the person's life. This factor is established conclusively for purposes of a hearing under OAR 309-114-0025 by introducing into evidence the treating physician's or psychiatric nurse practitioner's informed consent form and the independent examining physician's evaluation form, unless this factor is affirmatively raised as an issue by the patient or his or her representative at the hearing.

(c) The proposed significant procedure is the most appropriate treatment for the person's condition according to current clinical practice all other less intrusive procedures have been considered and all criteria and information set forth in OAR 309-114-0010(3)(a) were considered. This factor is established conclusively for purposes of a hearing under 309-114-0025 by introducing into evidence the treating physician's or psychiatric nurse practitioner's informed consent form and the independent examining physician's evaluation form, unless this factor is affirmatively raised as an issue by the patient or his or her representative at the hearing.

(d) The institution made a conscientious effort to obtain informed consent from the patient. This factor is established conclusively for purposes of a hearing under OAR 309-114-0025 by introducing into evidence the treating physician's or psychiatric nurse practitioner's informed consent form and the medication educator's form or progress note, unless this factor is affirmatively raised as an issue by the patient or his or her representative at the hearing. If the institution has reason to believe a patient has limited English language proficiency or the patient requests it, the institution will make reasonable accommodations to provide the patient with meaningful access to the informed consent process, such as providing the patient with the opportunity to have an interpreter orally translate written materials into the patient's native language and provide translation during the treating physician's or psychiatric nurse practitioner's attempts to obtain informed consent and the medication educator's attempt to provide information about the significant procedure. A "conscientious effort" to obtain informed consent means the following:

(A) The patient's treating physician or psychiatric nurse practitioner made at least two good faith attempts to obtain informed consent by attempting to explain the procedure to the patient and documenting those efforts in the patient's record; and

(B) The medication educator made at least one good faith attempt to provide the information required in OAR 309-114-0010(3)(a)(B) and (E) and explain and discuss the proposed procedure with the patient.

(e) Because of the preliminary nature of their commitment, the following additional findings must be made for patients under ORS 161.370 jurisdiction in order to show good cause under this rule:

(A) Medication is not requested for the sole purpose of restoring trial competency; and

(B) The patient is being medicated because of the patient's dangerousness or to treat the patient's grave disability.

(2) Independent Review: Prior to granting approval for the administration of a significant procedure for good cause to a person committed to the Division, the superintendent or chief medical officer of a state institution for the mentally ill shall obtain consultation and approval from an independent examining physician, or if a patient refuses to be examined, the superintendent or chief medical officer shall document that an independent examining physician made at least two good faith attempts to examine the patient. The superintendent or chief medical officer shall maintain a list of independent examining physicians and shall seek consultation and approval

from independent examining physicians selected on a rotating basis from the list. The independent examining physician shall not be an employee of the Division, shall be a board-eligible psychiatrist, shall have been subjected to review by the medical staff executive committee as to qualifications to make such an examination, shall have been provided with a copy of administration rules OAR 309-114-0000 through 309-114-0030 and shall have participated in a training program regarding these rules, their meaning and application.

(3) The superintendent or chief medical officer shall provide to a patient to whom a significant procedure is proposed to be administered written advance notice of the intent to seek consultation and approval of an independent examining physician for the purpose of administering the procedure without the patient's consent.

(4) The physician selected to conduct the independent consultation shall:

(a) Review the person's medical chart including the records of efforts made to obtain the person's informed consent and

(A) Personally examine the person at least one time; or

(B) If the patient refuses to be examined, the physician shall make two good faith attempts to examine the patient. If the patient refuses to be examined during these two good faith attempts, the independent consultation and approval requirement outlined in subsection (4)(a)(A) and (4)(b) of this rule shall be deemed to be fulfilled.

(b) Discuss the matter with the person to determine the extent of the need for the procedure and the nature of the person's refusal, withholding or withdrawal or inability to consent to the significant procedure. This determination as well as the supporting evidence in the form of the specific questions asked and answers given regarding the patient's ability to weigh the risks and benefits of the proposed treatment, alternative treatment and no treatment must be documented in the patient's record;

(c) Consider additional information, if any, presented prior to or at the time of examination or interview as may be requested by the person or anyone on behalf of the person; and

(d) Make a determination whether the factors required under these rules exist for the particular person or that one or more factors are not present and complete a report of his or her findings which provides their approval or disapproval of the proposed significant procedure. The written report must be provided to:

(A) The superintendent or chief medical officer; and

(B) The person to whom a significant procedure is proposed to be administered with a copy being made part of the person's record.

(5) Superintendent's Determination:

(a) The superintendent or chief medical officer shall approve or disapprove of the administration of the significant procedure to a person committed to the Division based on good cause provided that if the examining physician or psychiatric nurse practitioner found that one or more of the factors required by section (1) of this rule were not present or otherwise disapproved of the procedure; the superintendent or chief medical officer shall not approve the significant procedure and it shall not be performed;

(b) Approval of the significant procedure shall be only for as long as no substantial increase in risk is encountered in administering the significant procedure or significant procedure of a similar class during the term of a person's commitment, but in no case longer than 180 days. Disapproval shall be only for as long as no substantial change occurs in the person's condition during the term of commitment, but in no case longer than 180 days;

(c) Written notice of the superintendent's or chief medical officer's determination shall be provided to the patient and made part of the individual's record. This notice must be delivered to the patient and fully explained by facility medical staff. This notice must include a clear statement of the decision to treat without informed consent, specific basis for the decision, what evidence was relied on to make the decision and include a clear notice of the opportunity to ask for a contested case hearing with an administrative law judge if the patient disagrees with the decision. Attached must be a form with a simple procedure to request a hearing. The patient indicating in writing or verbally to any staff member a desire to challenge the institution's decision will be sufficient to request a contested case hearing pursuant to OAR 309 114 0025. The patient shall have 48 hours to request a contested case hearing after receiving this notice. If the patient does not request a hearing within the 48 hour period or the patient subsequently withdraws his initial hearing request and is not already receiving the significant procedure, the institution may involuntarily administer the significant procedure. A patient retains the right to request an initial hearing on the decision to administer a significant procedure without informed consent at any time.

(d) If the patient withdraws his or her initial request for hearing or refuses to attend the initial hearing without good cause, the administrative law judge will issue a dismissal order pursuant to OAR 137-003-0672(3). A dismissal order will allow the institution to immediately administer the significant procedure without informed consent as if the patient had never requested a hearing. If a dismissal order is issued, the patient may request a second hearing. If the patient withdraws his second request for hearing or refuses to attend the second hearing without good cause, the hearing will occur as scheduled with the institution presenting a prima facie case pursuant to ORS 183.417(4) and the administrative law judge will issue a proposed order by default. The institution will then issue a final order by default.

(e) Records of all reports by independent examining physicians of the determinations of the superintendent or chief medical officer under this rule shall be maintained by the superintendent or chief medical officer in a separate file and shall be summarized each year. Such summaries shall show:

(A) Each type of proposed significant procedure for which consultation with an independent examining physician was sought;

(B) The number of times consultation was sought from a particular independent examining physician for each type of proposed significant procedure;

(C) The number of times each independent examining physician approved and disapproved each type of proposed significant procedure; and

(D) The number of times the superintendent or chief medical officer approved and disapproved each type of proposed significant procedure.

(f) The summaries referred to in subsection (5)(e) of this rule shall be public records and shall be made available to the public during reasonable business hours in accordance with ORS Chapter 192.

(6) When treatment is being administered without informed consent, the ward physician or psychiatric nurse practitioner will write a progress note addressing any changes in patient's capacity to give informed consent every 60 days.

(7) At any time that a patient's condition changes so that there appears to his or her treating physician or psychiatric nurse practitioner to be a substantial improvement in the patient's capacity to consent to or refuse treatment, a formal re assessment of the patient's capacity to consent shall occur as described in OAR 309-114-0010 and 309-114-0020. No order to administer treatment without informed consent in non-emergency situations shall be valid for longer than 180 days or the duration of the commitment, whichever is shorter, without re establishing the need for the order by following the procedures described in 309-114-0010 and 309-114-0020.

(8) When an individual is transferred to a state institution from a community hospital or another state institution where he or she was already being treated with a significant procedure without informed consent, the receiving institution must apply OAR 309-114-0000 through 309-114-0030 no later than 7 days after the date of admission to the new institution. A state institution can honor an existing order for involuntary administration of a significant procedure without informed consent if procedures such as those outlined in 309-114-0010 through 309-114-0030 have already been applied and all necessary documentation is in the patient's file.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 179.321, 426.070 & 426.385

Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHD 3-1988, f. 4-12-88, (and corrected 5-17-880, cert. ef. 6-1-88; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; MHS 3-2009, f. & cert. ef. 6-26-09; MHS 6-2010(Temp), f. & cert. ef. 3-24-10 thru 9-20-10; MHS 12-2010, f. & cert. ef. 9-9-10; MHS 13-2010(Temp), f. & cert. ef. 11-19-10 thru 5-18-11; MHS 4-2011, f. & cert. ef. 5-19-11; MHS 12-2013(Temp), f. & cert. ef. 10-29-13 thru 4-27-14; MHS 9-2014, f. & cert. ef. 4-24-14; MHS 2-2015(Temp), f. & cert. ef. 4-24-15 thru 10-20-15; MHS 5-2015, f. & cert. ef. 8-28-15

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

**Rule Caption:** Amending Prior Authorization Approval Criteria Guide
**Adm. Order No.:** DMAP 44-2015(Temp)
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-25-15 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 August 25, 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

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**Rule Caption:** Update Age Limitation, Identify Three PDN Programs, Update Benefit Package, Add CCOs

**Adm. Order No.:** DMAP 45-2015

**Filed with Sec. of State:** 8-25-2015

**Certified to be Effective:** 8-25-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 410-132-0020, 410-132-0030, 410-132-0060, 410-132-0070, 410-132-0080, 410-132-0100, 410-132-0120, 410-132-0180, 410-132-0200

**Rules Repealed:** 410-132-0050

**Subject:** The Private Duty Nursing (PDN) Services program administrative rules govern the Division of Medical Assistance Programs' (Division) private duty nursing services. In 2012, the Centers for Medicare and Medicaid Services (CMS) approved the PDN State Plan Amendment (SPA) adjustment to reflect current practice for age limitation (not covered if the client is 21 years of age or older). These rule changes will align the rule with the SPA and current practice. The rule amendments clarify the three distinct PDN programs under the Division, DHS, and ODE; introduce and define new terminology; and provide clarifying language. These rules also update the benefit package and add coordinated care organizations (CCO)'s. These rules are being amended to reflect current practice.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-132-0020**

**Private Duty Nursing Services**

(1) The practice of nursing is governed by the following: Oregon State Board of Nursing, ORS 678.010 to 678.410, and Oregon State Board of Nursing, chapter 851, divisions 031, 045, and 047.

(2) Private duty nursing is considered supportive to the care provided to a client by the client's family, foster parents, and delegated caregivers, as applicable. Nursing services shall be medically appropriate. Medically appropriate for private duty nursing shift care is determined by qualifying

for services based on the Private Duty Nursing Acuity Grid (DMAP 591). Increases or decreases in the level of care and number of hours or visits authorized shall be based on a change in the client's condition, program limitations, and the family, foster parents, or delegated caregiver's ability to provide care.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 6-1997, f. & cert. ef. 2-19-97; OMAP 6-1999, f. 3-4-99, cert. ef. 4-1-99; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 54-2002, f. & cert. ef. 10-1-02; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0030**
**Definitions**

(1) "Activities of daily living or 'ADL'" means activities usually performed in the course of a normal day in an individual's life including:

(a) Eating: Assisting the individual in feeding or fluid intake by any means from a receptacle into the body, including monitoring to prevent choking or aspiration;

(b) Bathing: Assisting the individual with cleansing the body, washing hair, shaving, nail care, and using assistive devices when necessary to get in and out of the bathtub or shower;

(c) Dressing: Assisting the individual with putting on, fastening, and taking off all items of clothing, braces, and artificial limbs, including obtaining and replacing items from their storage area in the immediate environment;

(d) Toileting: Assisting the individual in getting to and from, on and off, the toilet, commode, or bedpan for elimination of feces and urine. This includes cleansing after elimination and adjusting clothing as necessary;

(e) Maintaining Continence: Including external cleansing of Foley catheter, emptying catheter drainage bag, maintenance bowel care, changing and replacing incontinence products, including colostomy or ileostomy bags;

(f) Transferring: Assisting the individual with mobility, transfers, and repositioning by any means including use of an assistive device and includes turning or adjusting padding for physical comfort or pressure relief and encouraging or assisting with range of motion exercises.

(2) "Admission" means acceptance of the client into the private duty nursing program contingent upon meeting the criteria as stated in rule.

(3) "Basic tasks of client/nursing care" means procedures that do not require the education or training of a registered nurse or licensed practical nurse that cannot be performed by the client independently. Basic tasks of client/nursing care also means procedures that may be directed by the client. These basic tasks include, but are not limited to, activities of daily living. Basic tasks may vary from setting to setting depending on the client population served in that setting and the acuity and complexity of the client's care needs. Basic tasks may require the assignment and supervision of a licensed nurse. The need for supervision is at the discretion of the registered nurse. See State Board of Nursing rules that govern the practice of nursing.

(4) "Critical/fluctuating condition" means a situation where the client's clinical and behavioral state is of a serious nature expected to rapidly change and be in need of continuous reassessment and evaluation.

(5) "Delegation" means that a registered nurse authorizes an unlicensed person to perform tasks of nursing care in selected situations and indicates that authorization in writing. The delegation process includes nursing assessment of a client in a specific situation, evaluation of the ability of the unlicensed persons, teaching the task, ensuring supervision of the unlicensed persons, and re-evaluating the task at regular intervals. For the purpose of these rules, the unlicensed person, caregiver, or certified nursing assistant performs tasks of nursing care under the Registered Nurse's delegated authority.

(6) "Discharge" means the client no longer meets the Division rules and criteria of the private duty nursing program.

(7) "Habilitation" means services that are provided in order to assist an individual to acquire a variety of skills including self-help, socialization, and adaptive skills. Habilitation is aimed at raising the level of physical, mental, and social functioning of an individual. Habilitation is contrasted to rehabilitation, which involves the restoration of function an individual lost.

(8) "Home" means a place of temporary or permanent residence, not including a hospital, intermediate care facility for individuals with intellectual disabilities (ICF/ID), nursing facility, or licensed residential care facility.

(9) "Instrumental activities of daily living or 'IADL'" means activities usually performed in the course of a normal day in an individual's life and include:

(a) Personal Hygiene: Perform or assist with activities required to keep one's appearance neat, secure clothing, comb/brush hair, nail care, foot care, skin care, mouth care, and oral hygiene, etc.;

(b) Light Housework: Perform or assist with housekeeping tasks necessary to maintain the individual in a healthy and safe living environment;

(c) Laundry: Perform or assist with laundering or cleaning of clothing, bedding, and other linens;

(d) Meal Preparation: Perform or assist with healthy meal planning and preparation, insuring special diets are followed;

(e) Transportation: Assist the individual in getting to and from necessary appointments and community activities through available means of transportation;

(f) Grocery Shopping: Perform or assist the individual in planning for and purchasing basic needs and household items;

(g) Using the Telephone: Perform or assist the individual in arranging necessary appointments and making desired phone calls;

(h) Medication Management: Assist with medications that are ordinarily self-administered, including administering medication and observing to insure the individual is taking medication as ordered, documenting and monitoring any notable side effects, and refilling prescriptions in a timely manner. Assist with use, maintenance, and cleaning of in-home equipment, monitoring client's condition, and ordering and maintaining necessary supplies;

(i) Money Management: Perform or assist with budgeting, making payments for monthly expenses, and use of personal funds for desired items and activities.

(10) "Maintenance care" means the level of care needed when the goals and objectives of the care plan are reached, the condition of the client is stable or predictable, the plan of care does not require the skills of a licensed nurse in continuous attendance, or the client, family, foster parents, or caregivers have been taught and have demonstrated the skills and abilities to carry out the plan of care.

(11) "Medically Fragile Children's (MFC) program" means a Department of Human Services (Department) organizational unit that coordinates and funds appropriate services for children ages 0 to 18 years with intensive medical needs that require in-home and technological supports and meet MFC clinical criteria.

(12) "Member of the household" means any individual sharing a common home as part of a single family unit, including domestic employees and others who live together as part of a family unit, but not including a roomer or boarder.

(13) "Plan of care" means written instructions detailing how the client is to be cared for. The plan is initiated by the private duty nurse or nursing agency with input from the prescribing physician. See the "Documentation Requirements" section of the Private Duty Nursing Services administrative rules.

(14) "Private duty nursing shift care" means an RN or LPN nursing service for the client's critical/fluctuating conditions requiring the need for reassessment and evaluation with a high probability that complications would arise without skilled nursing management of the treatment program supplied in a specified block of time.

(15) "Practice of nursing" means using the nursing process under doctor's orders to diagnose and treat human response to actual or potential health care problems, health teaching and health counseling, the provision of direct client care, and the teaching, delegation, and supervision of others who provide tasks of nursing care to clients. See State Board of Nursing rules that govern the practice of nursing.

(16) "Private duty nursing visit" means RN or LPN skilled nursing services for non-critical/stable conditions requiring reassessment and evaluation with a moderate probability that complications would arise without skilled nursing management of the treatment program supplied on an intermittent per visit basis.

(17) "Respite" means short-term or intermittent care and supervision in order to provide an interval of rest or relief to family or caregivers.

(18) "Responsible unit" means the agency responsible for approving or denying prior authorization.

(19) "Shift" means four to twelve hours of private duty nursing.

(20) "Skilled nursing services" means client care services pertaining to the curative, restorative, or preventive aspects of nursing performed by or under the supervision of a registered nurse pursuant to the plan of care established by the physician in consultation with the registered nurse. Skilled nursing emphasizes a high level of nursing direction, observation, and skill. The focus of these services shall be the use of the nursing process to diagnose and treat human responses to actual or potential health care problems, health teaching, and health counseling. Skilled nursing services

include the provision of direct care and the teaching, delegation, and supervision of others who provide tasks of nursing care to clients. These services shall comply with the Nurse Practice Act and administrative rules of the Oregon State Board of Nursing.

(21) "Special tasks of client/nursing care" means tasks that require the education and training of a registered nurse or licensed practical nurse to perform. Special tasks may vary from setting to setting depending on the client population served in that setting and the acuity/complexity of the client's care needs. Examples of special tasks include, but are not limited to, administration of injectable medications, suctioning, and complex wound care.

(22) "Stable/predictable condition" means a situation in which the client's clinical and behavioral status is known and does not require the regularly scheduled presence and evaluation of a licensed nurse. See State Board of Nursing rules that govern the practice of nursing.

(23) "Teaching" means the registered nurse instructs an unlicensed person in the correct method of performing a selected task of client/nursing care. See State Board of Nursing rules that govern the practice of nursing.

(24) "Unlicensed Person" means an individual who is not licensed to practice nursing, medicine, or any other health occupation requiring a license in Oregon, but who provides tasks of nursing care or is taught to administer non-injectable medications. A certified nursing assistant, as defined by these rules, is an unlicensed person. For the purpose of these delegation rules, unlicensed persons do not include members of the client's immediate family. Family members may perform tasks of nursing care without specific delegation from a Registered Nurse. The terms "unlicensed person" and "caregiver" may be used interchangeably.

(25) "Visit" means nursing service supplied on an intermittent basis in the home.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 6-1997, f. & cert. ef. 2-19-97; OMAP 6-1999, f. 3-4-99, cert. ef. 4-1-99; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0060**
**Private Duty Nursing Transition into Maintenance**

(1) Private duty nursing services become maintenance care when any one of the following situations occurs:

(a) Medical and nursing documentation supports that the condition of the client is stable/predictable;

(b) The plan of care does not require a licensed nurse to be in continuous attendance;

(c) The client, family, foster parents, or caregivers have been taught the nursing services and have demonstrated the skills and ability to carry out the plan of care;

(d) The combined score on the Acuity Grid and Psychosocial Grid is less than 54.

(2) This rule does not apply to individuals in the MFC program.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 9-1991, f. 1-28-91, cert. ef. 3-1-91; HR 6-1997, f. & cert. ef. 2-19-97; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0070**
**Documentation Requirements**

(1) Documentation of services provided shall be maintained in the client's place of residence by the private duty nurse until discharged from service. Payment may not be made for services where the documentation does not support the definition of skilled nursing. Documentation shall meet the standards of the Oregon State Board of Nursing.

(2) The private duty nurse shall ensure completion and documentation of a comprehensive assessment of the client's capabilities and needs for nursing services within seven days of admission. Comprehensive assessments shall be updated and submitted to the responsible unit by the next work day after any significant change of condition and reviewed by the responsible unit within the Oregon Health Authority at least every 60 days. Some examples of significant change in condition are hospital admission, emergency room visit, and change in status, death, or discharge from care.

(3) The nursing care plan shall document that the private duty nurse, through case management and coordination with all interdisciplinary staff and agencies, provides services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each client in accordance with a written, dated, nursing care plan. The nursing care plan shall:

(a) Be completed within seven days after admission for children and adolescents with short-term needs who are served through the Division. The nursing care plan shall be reviewed, updated, and submitted whenever the client's needs change, but at least every 60 days;

(b) Describe the medical, nursing, and psychosocial needs of the client and how the private duty nurse will actively coordinate and facilitate meeting those needs. This description of needs shall include interventions, measurable objectives, goals, and time frames in which the goals and objectives will be met and by whom;

(c) Include the rehabilitation potential including functional limitations related to Activities of Daily Living (ADL), types and frequency of therapies, and activity limitations per physician order;

(d) Include services related to school-based care according to the IEP and the Individualized Family Service Plan, if applicable;

(e) Show coordination of all services being provided including, but not limited to, the client or representative, registered nurse (RN) case manager, Department case worker, physician, other disciplines involved, and all other care providers involved in the client's treatment plan;

(f) Include a statement of the client's potential toward discharge. Timelines shall be included in the plan outline;

(g) Be available to and followed by all caregivers involved with the client's care.

(4) Documentation of private duty shift care and responses to care shall be written in an accurate, timely, thorough, and clear manner on the narrative or flow sheet. Documentation shall comply with the requirements of the Oregon State Board of Nursing in OAR chapter 851 and shall include:

(a) The name of the client on each page of documentation;

(b) The date of service;

(c) Time of start and end of service delivery by each caregiver;

(d) Anything unusual from the standard plan of care shall be expanded on the narrative;

(e) Interventions;

(f) Outcomes including the client's response to services delivered;

(g) Nursing assessment of the client's status and any changes in that status per each working shift; and

(h) Full signature of provider.

(5) Documentation of delegation, teaching, and assignment shall be in accordance with the Oregon State Board of Nursing Rules.

(6) For documentation to be submitted with prior authorization, see OAR 410-132-0100.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 6-1997, f. & cert. ef. 2-19-97; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0080**
**Limitations**

(1) General pertains to both shift care and visits:

(a) Private duty nursing is not covered if the client is:

(A) Twenty-one years of age or older;

(B) A resident of a nursing facility;

(C) A resident of a licensed intermediate care facility for individuals with intellectual disabilities (ICF/ID);

(D) In a hospital;

(E) In a licensed residential care facility;

(b) Private duty nursing is not covered solely to allow the client's family or caregiver to work or go to school;

(c) Private duty nursing is not covered solely to allow respite for caregivers or the client's family;

(d) Payment for private duty nursing may not be authorized for parents, siblings, grandparents, foster care parents, significant others, members of the client's household, or individuals paid by other agencies to provide caregiving services;

(e) Costs of private duty nursing services are not reimbursable if they are provided concurrently with care being provided under home health or hospice program rules;

(f) Home nursing visits as defined in the Home Enteral/Parenteral Nutrition and IV Services rules are not covered in conjunction with private duty nursing services;

(g) These services are provided for individuals aged 0 to 21 who need PDN or the same or similar nursing services during school hours. These services are provided through the school-based health services program in conjunction with the individual's Individual Education Plan (IEP) or Individualized Family Service Plan (IFSP) under the Individuals with Disabilities Education Act (IDEA;

(h) Holidays are paid at the same rate as non-holidays;

(i) Hours nurses spend in training are not reimbursable;

(j) Travel time to reach the job site is not reimbursable;

(k) Maintenance care is not reimbursable, except for those individuals in the MFC program.

(2) Private duty nursing visit:

(a) The nursing care plan and documentation supporting the medical appropriateness for private duty nursing shall be reviewed every 60 days to continue the service for children and adolescents with short-term needs who are served by the Division. Reviews shall be conducted by the responsible unit;

(b) Private duty nursing visits are limited to two per day.

(3) Private duty nursing shift care:

(a) Medically appropriate private duty nursing shift care for clients up to 21years old may be covered for acute episodes of illness, injury, or medical condition up to 60 continuous days in cases where it has been determined that skilled management by a licensed nurse is required;

(b) A client may be referred to the MFC program to determine if they meet the criteria for program admission at the time of the initial request for services if any of the following are determined to exist:

(A) The client's medical needs are for habilitation or maintenance; or

(B) The client's medical needs are long term.

(c) Individuals who no longer qualify for private duty nursing shift care shall be referred to the Department for determination of their long-term care needs;

(d) The number of hours of private duty nursing services that a client may receive is determined by the score on the Private Duty Nursing Acuity Grid (DMAP 591):

(A) The client shall score greater than 60 points on the Acuity Grid to receive up to 24 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition; or

(B) The client shall score 50 to 60 points on the Acuity Grid to receive up to 16 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition; or

(C) The client shall score 40 to 49 points on the Acuity Grid to receive up to 84 hours per week immediately after discharge from a hospital or if there is a significant worsening or decline of condition; or

(D) If the score is 30 to 39 on the Acuity Grid, then the Private Duty Nursing Psychosocial Grid (DMAP 590) shall be used to determine eligibility. If the score is 24 or above, the client may receive up to 84 hours per week of shift care.

(e) The banking, saving, or accumulating unused prior authorized hours used for the convenience of the family or caregiver is not covered.

Stat. Auth.: 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 9-1991, f. 1-28-91, cert. ef. 3-1-91; HR 25-1992(Temp), f. & cert. ef. 8-18-92; HR 13-1995, f. 6-2-95, cert. ef. 6-15-95; HR 5-1996, f. & cert. ef. 5-1-96; HR 6-1997, f. & cert. ef. 2-19-97; OMAP 7-1999, f. 3-4-99, cert. ef. 4-1-99; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 54-2002, f. & cert. ef. 10-1-02; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0100**
**Prior Authorization**

(1) Private duty nursing providers shall obtain prior authorization (PA) for all services.

(2) Providers shall request PA as follows (see the Private Duty Nursing Services Supplemental Information booklet for contact information):

(a) For individuals served by the MFC), from the Department's MFC Program;

(b) For clients enrolled in the fee-for-service (FFS) Medical Case Management (MCM) program, from the MCM contractor;

(c) For members enrolled in a coordinated care organization (CCO) or prepaid health plan (PHP), from the CCO or the PHP;

(d) For all other clients, from the Division.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: PWC 681, f. & ef. 7-17-74; PWC 759, f. 9-5-75, ef. 10-1-75; PWC 799, f. & ef. 6-1-76; AFS 43-1982, 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 9-1983, f. 2-17-83, ef. 3-2-83; AFS 14-1984(Temp), f. & ef. 4-2-84; AFS 22-1984(Temp), f. & ef. 5-1-84; AFS 40-1984, f. 9-18-84, ef. 10-1-84; HR 9-1991, f. 1-28-91, cert. ef. 3-1-91, Renumbered from 461-019-0210; HR 6-1997, f. & cert. ef. 2-19-97; OMAP 7-1999, f. 3-4-99, cert. ef. 4-1-99; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 93-2003, f. 12-30-03 cert. ef. 1-1-04; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0120**
**Billing Information**

(1) If the client has not enrolled in a CCO or PHP, bill with the appropriate Division unique procedure codes and follow the instructions on how to complete the CMS-1500.

(2) Client copayments may be required for certain services. See OAR 410-120-1230 for specific details.

(3) Claims shall be submitted on a CMS-1500, electronically or on paper. Paper claims shall be sent to the Division.

(4) Contact the Division's Electronic Billing Representative for information about electronic billing.

(5) Bill on a CMS-1500 and enter the appropriate TPR Explanation Code in Field 9 when billing for clients with Medicare.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 9-1991, f. 1-28-91, cert. ef. 3-1-91; HR 6-1997, f. & cert. ef. 2-19-97; OMAP 54-2002, f. & cert. ef. 10-1-02; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0180**
**Procedure Codes**

(1) All private duty nursing services require prior authorization.

(2) Private duty nursing visit:

(a) T1030 — Nursing care in the home by registered nurse per diem;

(b) T1031 — Nursing care in the home by licensed practical nurse per diem.

(3) Private duty nursing shift care:

(a) S9123 — Nursing care in the home by registered nurse per hour -- 1 unit equals one hour;

(b) S9124 — Nursing care in the home by licensed practical nurse per hour — 1 unit equals one hour.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 9-1991, f. 1-28-91, cert. ef. 3-1-91; HR 6-1997, f. & cert. ef. 2-19-97; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 54-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; DMAP 45-2015, f. & cert. ef. 8-25-15

**410-132-0200**
**Provider Enrollment**

(1) Registered nurses and licensed practical nurses shall submit a copy of licensure every two years upon renewal by the Oregon State Board of Nursing to be enrolled or continue enrollment as a Division provider.

(2) If the Division provider is a nursing employment/staffing agency, the agency shall:

(a) Be licensed in the State of Oregon as an in-home care agency with a comprehensive licensure as defined in OAR 333-536 or Home Health Agency OAR 333-027;

(b) Conduct a background check through the Department CRIMS;

(c) Provide a copy of the state licensure to the Authority upon request.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: OMAP 7-1999, f. 3-4-99, cert. ef. 4-1-99; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; DMAP 45-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Update Reference to Current Covered and Non-Covered Dental Services Document, Incorporate Changes to Prioritized List
**Adm. Order No.:** DMAP 46-2015(Temp)
**Filed with Sec. of State:** 8-26-2015
**Certified to be Effective:** 10-1-15 thru 3-28-16
**Notice Publication Date:**
**Rules Amended:** 410-123-1220, 410-123-1260
**Subject:** Effective October 1, 2015, the Health Evidence Review Commission (HERC) removed three oral health codes from funded lines of the Prioritized List of Health Services (Prioritized List). These codes are D1535, D9219, and D9931.The Authority is amending OAR 410-123-1220 and OAR 410-123-1260 to reflect these changes.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-123-1220**
**Coverage According to the Prioritized List of Health Services**

(1) This rule incorporates by reference the "Covered and Non-Covered Dental Services" document, dated October 1, 2015, and located on the Division of Medical Assistance Programs' (Division) website at: http://www.oregon.gov/oha/healthplan/Pages/dental.aspx.

(a) The "Covered and Non-Covered Dental Services" document lists coverage of Current Dental Terminology (CDT) procedure codes according to the Oregon Health Evidence Review Commission (HERC) Prioritized List of Health Services (Prioritized List) and the client's specific Oregon Health Plan benefit package;

(b) This document is subject to change if there are funding changes to the Prioritized List.

(2) Changes to services funded on the Prioritized List are effective on the date of the Prioritized List change:

(a) The Division administrative rules (chapter 410, division 123) will not reflect the most current Prioritized List changes until they have gone through the Division rule filing process;

(b) For the most current Prioritized List, refer to the HERC website at www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx;

(c) 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.

(3) Refer to OAR 410-123-1260 for information about limitations on procedures funded according to the Prioritized List. Examples of limitations include frequency and client's age.

(4) The Prioritized List does not include or fund the following general categories of dental services, and the Division does not cover them for any client. Several of these services are considered elective or "cosmetic" in nature (i.e., done for the sake of appearance):

(a) Desensitization;

(b) Implant and implant services;

(c) Mastique or veneer procedure;

(d) Orthodontia (except when it is treatment for cleft palate);

(e) Overhang removal;

(f) Procedures, appliances, or restorations solely for aesthetic or cosmetic purposes;

(g) Temporomandibular joint dysfunction treatment; and

(h) Tooth bleaching.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 21-1994(Temp), f. 4-29-94, cert. ef. 5-1-94; HR 32-1994, f. & cert. ef. 11-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; HR 9-1996, f. 5-31-96, cert. ef. 6-1-96; 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; 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 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 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

**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 either 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 ICD9 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, or 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-9-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

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**Rule Caption:** Update Reference to Current ADA Dental Claim Form
**Adm. Order No.:** DMAP 47-2015(Temp)
**Filed with Sec. of State:** 8-26-2015
**Certified to be Effective:** 10-1-15 thru 3-28-16
**Notice Publication Date:**
**Rules Amended:** 410-123-1240
**Subject:** The Authority is amending OAR 410-123-1240 to require providers billing dental services on paper to use the 2012 version of the American Dental Association's claim form. The 2012 version is the most current version.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-123-1240**
**The Dental Claim Invoice**

(1) Providers: Refer to the Dental Services Provider Guide for information regarding claims submissions and billing information.

(2) Providers billing dental services on paper must use the 2012 version of the American Dental Association (ADA) claim form.

(3) Submission of electronic claims directly or through an agent must comply with the Electronic Data Interchange (EDI) rules. OAR 943-120-0100 et seq.

(4) Specific information regarding Health Insurance Portability and Accountability Act (HIPAA) requirements can be found on the Division Web site.

(5) Providers will not include any client co-payments on the claim when billing for dental services.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; 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 76-2002, f. 12-24-02, cert. ef. 1-1-03; 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 36-2005, f. & cert. ef. 8-1-05; 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 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 47-2015(Temp), f. 8-26-15, cert. ef. 10-1-15 thru 3-28-16

**Rule Caption:** CCO Enrollment for Adults and Young Adults Receiving Temporary Out-of-Area Behavioral Health Treatment
**Adm. Order No.:** DMAP 48-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 8-1-2015
**Rules Adopted:** 410-141-3066
**Rules Repealed:** 410-141-3065
**Subject:** This rule provides the Division framework for CCO member enrollment for those adults and young adults receiving temporary out-of-area behavioral health treatment services. Because of integration of Substance Abuse Disorder (SUD) treatment services, referenced in OAR 410-141-3065, into the CCO behavioral health system and the commonality with services referenced in OAR 410-141-3066, the two rules have been consolidated. With this consolidation, it is the Authority's intent to repeal OAR 410-141-3065.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-141-3066**
**CCO Enrollment Requirements for Temporary Out-of-Area Behavioral Health Treatment Services**

(1) For purposes of this rule, the following definitions apply:

(a) "Behavioral Health" means mental health, mental illness, addiction disorders, and substance use disorders;

(b) "Home CCO" means enrollment in a Coordinated Care Organization (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;

(c) "Temporary Placement" means hospital, institutional, and residential placement only, including those placements occurring inside or outside of the service area with the expectation to return to the Home CCO service area.

(2) The Authority has determined that, to the maximum extent possible, all individuals shall be enrolled at the next available enrollment date following eligibility, redetermination, or upon review by the Authority. This rule implements and further describes how the Authority administers its authority under OAR 410-141-3060 and OAR 410-141-3080 for purposes of making enrollment decisions for adult and young adult individuals, 14 through and including 17 years of age, receiving temporary out-of-area behavioral health treatment services:

(a) For program placements in Child Welfare, Behavioral Rehabilitative Services, Oregon Youth Authority, and Psychiatric Residential Treatment Services, see OAR 410-141-3050 for program specific rules;

(b) For program placements in Secure Children's In-Patient (SCIP) and Secure Adolescent In-Patient (SAIP), CCOs shall work with the Authority in managing admissions and discharges;

(c) The member shall remain enrolled with the CCO for delivery of SCIP and SAIP services. The CCO shall bear care coordination responsibility for the entire length of stay, including admission, determination, and planning.

(3) Specific to residential settings specializing in the treatment of Substance Use Disorders (SUD), if the individual is enrolled in a CCO on the same day the individual is admitted to the residential treatment services, the CCO shall be responsible for the covered services during that placement even if the location of the facility is outside of the CCO's service area. The individual is presumed to continue to be enrolled in the CCO with which the individual was most recently enrolled.

(4) CCO assignment is based on the member's residence and referred to as Home CCO. Home CCO enrollment for temporary out-of-area placement shall:

(a) Meet Oregon residency requirements defined in OAR 410-200-0200;

(b) Be eligible for enrollment into a CCO as specified in OAR 410-141-3060;

(c) Be based on most recent permanent residency and related CCO enrollment history prior to hospital, institutional, and residential placement. If the client has no enrollment history, new enrollment shall reflect most recent permanent residence prior to hospital, institutional, and residential placement; and

(d) Be consistent with OAR 410-141-3080 when the client exercises recipient choice, where the client is able to actively participate in their own

recovery and direct their own care. If the client is unable to designate county of residence, as indicated in OAR 410-200-0200, the Authority shall designate the Home CCO as the geographic location of the client at the most recent residency and CCO enrollment prior to hospitalization.

(5) Home CCO enrollment policy for State Hospital discharges shall be implemented as follows:

(a) Upon State Hospital discharge, the Authority and the State Hospital Benefit Coordination Unit shall consult and coordinate with the Home CCO for client placement;

(b) If the client has no residency or enrollment history or no recent pre-hospitalization enrollment history, but the client's permanent residency is indicated other than temporary placement location, the Authority shall enroll pursuant to section (3) (c) of this rule Home CCO enrollment;

(c) If the client has no residency or enrollment history prior to hospitalization, the Authority shall enroll in placement service area.

(6) For new and existing temporary residential placements, CCOs shall coordinate all behavioral health care and needs including, but not limited to, medication assisted treatment, routine non-emergent physical health care, dental, and transportation when within the scope of the CCO's contract, including when member's temporary placements are outside the CCO service area. CCO's shall coordinate care for members receiving behavioral health treatment while in temporary placement and discharge planning for the return to the Home CCO. Additionally, CCO's shall coordinate all care for accompanying dependent members.

(7) Enrollment shall follow the Home CCO enrollment policy outlined in this rule, except when:

(a) The Home CCO enrollment hinders access to care or puts the client at potential harm, or the Home CCO is unable to provide needed unique services, a change in enrollment may be requested for the member to a CCO serving the service area of the temporary out-of-area placement;

(b) Home CCO enrollment may create a continuity of care concern, as specified in OAR 410-141-3080. If a continuity interruption to a client's care is indicated, the Authority shall align enrollment with the care and claims history.

(8) Pursuant to OAR 410-141-3080, if the Authority determines that an individual was disenrolled for reasons not consistent with these rules, the Authority shall re-enroll the individual with the appropriate CCO and assign an enrollment date that provides for continuous CCO coverage with the appropriate CCO. If the individual was enrolled in a different CCO in error, the Authority shall disenroll the individual from the incorrect CCO and recoup the capitation payments, pursuant to OAR 410-120-1395. Re-enrollment to the correct CCO shall occur as specified in OAR 410-141-3060.

(9) For consideration of disenrollment decisions other than specified in this rule, OAR 410-141-3080 shall apply. If the Authority determines that disenrollment should occur, the CCO shall continue to provide covered services until the disenrollment date established by the Authority, pursuant to 410-141-3160. This shall provide for an adequate transition to the next responsible coordinated care organization.

Stats. Auth.: ORS 413.042, 414.610 - 414.685
Stats. Implemented: ORS 413.042, 414.610 - 414.685
Hist.: DMAP 48-2015, f. 8-28-15, cert. ef. 9-1-15

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**Rule Caption:** Align with Department of Human Services OAR Chapter 461 Rules
**Adm. Order No.:** DMAP 49-2015
**Filed with Sec. of State:** 9-3-2015
**Certified to be Effective:** 10-1-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 410-120-0006
**Subject:** In coordination with the Department of Human Services' (Department) revision of rules established in OAR chapter 461 for all overpayment, personal injury liens, and estate administration, the Division is amending OAR 410-120-0006 to assure that the Division's rule aligns with and reflects information found in the Department's amended rules. In OAR 410-120-0006, the Division adopts and incorporates Department rules and must update OAR 410-120-0006 accordingly. The Division is amending this rule that incorporates rules established in OAR Chapter 461 for all overpayment, personal injury liens, and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-120-0006**
**Medical Eligibility Standards**

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedures consistent with applicable law. As outlined in OAR 943-001-0020, the Authority and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461 for all overpayment, personal injury liens and estates administration for Authority programs covered under OAR chapter 410, division 200.

(2) Any reference to OAR chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042, 414.065
Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. e.f 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP 44-2013(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13; DMAP 52-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 55-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14; DMAP 59-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 3-31-14; DMAP 9-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 3-31-14; DMAP 18-2014, f. 3-28-14, cert. ef. 3-31-14; DMAP 41-2014, f. & cert. ef. 7-1-14; DMAP 54-2014, f. & cert. ef. 9-23-14; DMAP 12-2015(Temp), f. 3-5-15, cert. ef. 3-19-15 thru 9-14-15; DMAP 33-2015, f. 6-24-15, cert. ef. 7-1-15; DMAP 49-2015, f. 9-3-15, cert. ef. 10-1-15

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**Rule Caption:** Amendment of HERC Prioritized List of Health Services Reflecting Approved Modifications Effective October 1, 2015
**Adm. Order No.:** DMAP 50-2015(Temp)
**Filed with Sec. of State:** 9-10-2015
**Certified to be Effective:** 10-1-15 thru 3-28-16
**Notice Publication Date:**
**Rules Amended:** 410-141-0520
**Subject:** The OHP program administrative rules govern the Division of Medical Assistance Programs' payments for services provided to clients. The Division intends to temporarily amend 410-141-0520 to reference the Health Evidenced Review Committee (HERC) Prioritized List of Health Services' January 1, 2015–December 31, 2015. The HERC has made interim modifications and technical changes to the October 1, 2014 Prioritized List of Health Services. The changes will be effective October 1, 2015.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-141-0520**
**Prioritized List of Health Services**

(1) The Health Evidenced Review Commission (HERC) Prioritized List of Health Services (Prioritized List) is the listing of physical and mental health services with "expanded definitions" of preventive services and the practice guidelines as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HERC. The HERC maintains the most current list on their website: http://www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx. For a hard copy, contact the Division of Medical Assistance Programs within the Oregon Health Authority (OHA).

(2) This rule, effective October 1, 2015, incorporates by reference the Centers for Medicare and Medicaid Services' (CMS) approved January 1, 2015–December 31, 2015 Prioritized List, including October 1, 2015 inter-

im modifications and technical changes, expanded definitions, practice guidelines, and condition treatment pairs funded through line 476.

Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065 & 414.727
Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. 12-10-09 ef. 1-1-10 thru 3-29-10; DMAP 1-2010(Temp), f. & cert. ef. 1-15-10 thru 3-29-10; DMAP 3-2010, f. 3-5-10, cert. ef. 3-17-10; DMAP 5-2010(Temp), f. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10; DMAP 27-2010(Temp), f. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 43-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 4-2011, f. 3-23-11, cert. ef. 4-1-11; DMAP 24-2011(Temp), f. 9-15-11, cert. ef. 10-1-11 thru 3-26-12; DMAP 45-2011, f. 12-21-11, cert. ef. 12-23-11; DMAP 47-2011(Temp), f. 12-13-11, cert. ef. 1-1-12 thru 6-25-12; DMAP 22-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-21-12; DMAP 43-2012(Temp), f. 9-21-12, cert. ef. 9-23-12 thru 3-21-13; DMAP 11-2013, f. & cert. ef. 3-21-13; DMAP 50-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 57-2013(Temp), f. & cert. ef. 10-29-13 thru 3-30-14; DMAP 7-2014, f. & cert. ef. 1-31-14; DMAP 13-2014(Temp), f. 3-20-14, cert. ef. 4-1-14 thru 9-28-14; DMAP 31-2014, f. 5-30-14, cert. ef. 7-1-14; DMAP 63-2014(Temp), f. & cert. ef. 10-17-14 thru 12-31-14; DMAP 79-2014, f. 12-18-14, cert. ef. 12-31-14; DMAP 80-2014(Temp), f. 12-23-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 18-2015, f. & cert. ef. 4-1-15; DMAP 50-2015(Temp), f. 9-10-15, cert. ef. 10-1-15 thru 3-28-16

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

**Rule Caption:** Repeal of Community-Based Health Care Improvement Program rule.
**Adm. Order No.:** OHP 5-2015
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-21-15
**Notice Publication Date:** 8-1-2015
**Rules Repealed:** 409-040-0100, 409-040-0105, 409-040-0110, 409-040-0115
**Subject:** The Community-Based Health Care Improvement Program approved three community-based health care initiatives between January 1, 2010 and June 30, 2013. All reporting and financial components are now complete, and there is no longer a need for this rule.
**Rules Coordinator:** Zarie Haverkate—(503) 931-6420

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

**Rule Caption:** Temporary Licensure for Wild Land Fire Response
**Adm. Order No.:** PH 12-2015(Temp)
**Filed with Sec. of State:** 8-21-2015
**Certified to be Effective:** 8-21-15 thru 2-16-16
**Notice Publication Date:**
**Rules Adopted:** 333-265-0055
**Subject:** The Oregon Health Authority, Public Health Division is temporarily amending administrative rules in chapter 333, division 265 pertaining to emergency medical services (EMS) provider licensure in order to expedite limited license reciprocity for out of state EMS providers to assist with emergency medical needs of staff on fire response teams.
**Rules Coordinator:** Brittany Sande—(971) 673-1291

**333-265-0055**
**Temporary Licensure for Wild Land Fire Response**

(1) Notwithstanding OAR 333-265-0050, an individual licensed and in good standing as an emergency medical services provider in another state and registered with the National Registry of EMTs may apply for a temporary license for the purpose of providing emergency or non-emergency care to other individuals involved in responding to a wild land fire in Oregon.

(2) To apply for temporary licensure an individual must complete a temporary license application and provide any additional information required in the application.

(3) The Authority may, but is not required to conduct a criminal background check on an individual applying for temporary licensure.

(4) If the Authority issues a temporary license that license is only valid:

(a) For 90 days;

(b) While the individual is deployed fighting or otherwise responding to a wild land fire; and

(c) For the purpose of treating individuals engaged in wild land fire response in Oregon.

(5) An individual licensed under this rule must comply with ORS chapter 682 and all rules adopted under ORS chapter 682.

Stat. Auth.: ORS 682.017, 682.216
Stats. Implemented: ORS 682.017, 682.216
Hist.: PH 12-2015(Temp), f. & cert. ef. 8-21-15 thru 2-16-16

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**Rule Caption:** New school, children's facility and health department immunization reporting requirements; removal of old religious exemptions
**Adm. Order No.:** PH 13-2015(Temp)
**Filed with Sec. of State:** 8-24-2015
**Certified to be Effective:** 8-24-15 thru 2-19-16
**Notice Publication Date:**
**Rules Amended:** 333-050-0010, 333-050-0040, 333-050-0050, 333-050-0080, 333-050-0095, 333-050-0100, 333-050-0110
**Subject:** The Oregon Health Authority, Public Health Division is temporarily amending administrative rules in chapter 333, division 50, relating to school immunization law. These rule amendments remove the provision allowing old religious exemptions signed prior to March 1, 2014. Parents of children with religious exemptions signed prior to March 1, 2014 will be required to submit updated documentation. These rule amendments clarify reporting requirements for schools and children's facilities, and add requirements for reporting immunization and exemption status by vaccine for enrolled children for whom vaccine status is required to be documented. These rule amendments change the time by which a certified letter must be sent to a non-compliant school or children's facility from six calendar days to five working days. These rule amendments clarify notice to parents of susceptible children of exclusion when there is a case of a restrictable disease. These rule amendments describe new requirements for schools, children's facilities and local health departments to make immunization rates available.
**Rules Coordinator:** Brittany Sande—(971) 673-1291

**333-050-0010**
**Definitions Used in the Immunization Rules**

As used in OAR 333-050-0010 through 333-050-0140:

(1) "Certificate of Immunization Status" means a form provided or approved by the Public Health Division on which to enter the child's immunization record.

(2) "Complete" means a category assigned to any child whose record indicates that the child is fully immunized or has immunity documentation as specified by OAR 333-050-0050(2) or (6).

(3) "Contraindication" means either a child or a household member's physical condition or disease that renders a particular vaccine improper or undesirable in accordance with the current recommendations of the Advisory Committee on Immunization Practices, Department of Health and Human Services, Centers for Disease Control and Prevention, and the American Academy of Pediatrics.

(4) "County Immunization Status Report" means a report submitted by the local health department (or school or facility if there is no local health department) to the Public Health Division to report annually the

number of children as specified, in the area served, and the number susceptible to the vaccine preventable diseases covered by these rules.

(5) "Evidence of Immunization" means an appropriately signed and dated statement indicating the month, day and year each dose of each vaccine was received.

(6) "Exclude" or "Exclusion" means not being allowed to attend a school or facility pursuant to an Exclusion Order from the local health department based on non-compliance with the requirements of ORS 433.267(1), and these rules.

(7) "Exclusion Order for Incomplete Immunization or Insufficient Information" means a form provided or approved by the Public Health Division for local health department and Public Health Division use in excluding a child who, based on the child's record, is in non-compliance with the vaccine requirements of OAR 333-050-0050(2) or who has insufficient information on his or her record to determine whether the child is in compliance. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(8) "Exclusion Order for No Record" means a form provided or approved by the Public Health Division for local health department, Public Health Division and school or facility use in excluding a child with no record. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(9) "Exempted Children's Facilities" are those that:

(a) Are primarily for supervised training in a specific subject, including, but not limited to, dancing, drama, or music;

(b) Are primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;

(c) Are operated at a facility where children may only attend on a limited basis not exceeding four different days per year; or

(d) Are operated on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care.

(10) "Exemption" means either a documented medical or nonmedical exemption.

(11) "Health Care Practitioner" means a practitioner of the healing arts who has within the scope of the practitioner's license, the authority to order immunizations, to include: M.D., D.O., N.D., nurse practitioners, and physician assistants, or a registered nurse working under the direction of an M.D., D.O., N.D. or nurse practitioner.

(12) "Immunity Documentation" means a written statement signed by a physician or an authorized representative of the local health department that the child should be exempted from receiving specified immunizations due to a disease history based on a health care practitioner's diagnosis or the results of an immune titer.

(13) "Incomplete" means a category assigned to any child whose record indicates, on or before the date the Primary Review Summary form is due at the local health department, that the child:

(a) Is not fully immunized as required in OAR 333-050-0050(2); and

(b) Does not have a completed exemption or immunity documentation for a vaccine for which the child is not fully immunized.

(14) "Insufficient" means a category assigned to any child whose record does not have enough information to make a proper determination about the child's immunization status, including unsigned records, vaccine dates before day of birth, dates out of sequence, and missing doses in the middle of a vaccine series. This category does not apply to signed but undated records.

(15) "Local Health Department" means the District or County Board of Health, Public Health Officer, Public Health Administrator or local public health agency having jurisdiction within the area.

(16) "Main Office" means a central administrative location at the school or children's facility where immunization rates are made available to parents.

(17) "Medical Exemption" means a document signed by a physician or an authorized representative of the local health department stating that the child should be exempted from receiving specified immunizations based on a medical diagnosis resulting from a specific medical contraindication.

(18) "New Enterer" means a child who meets one of the following criteria:

(a) Infants or preschoolers attending an Oregon facility;

(b) Infants or preschoolers attending a drop-in facility on five or more different days within one year;

(c) Children initially attending a school at the entry level (prekindergarten, kindergarten or the first grade, whichever is the entry level);

(d) Children from a home-school setting initially attending a school or facility at any grade (preschool through 12th grade); or

(e) Children initially attending a school or facility after entering the United States from a foreign country at any grade (preschool through 12th grade).

(19) "Non-Compliance" means failure to comply with any requirement of ORS 433.267(1) or these rules.

(20) "Nonmedical Exemption" means a document, on a form prescribed by the Public Health Division, signed by the parent stating that the parent is declining one or more immunizations on behalf of the child, and including documentation of completion of the vaccine educational module or a signature from a health care practitioner verifying discussion of risks and benefits of immunization.

(21) "Post-Secondary Education Institution" means:

(a) A state institution of higher education under the jurisdiction of the State Board of Higher Education;

(b) A community college operated under ORS chapter 341;

(c) A school or division of Oregon Health and Science University; or

(d) An Oregon-based, generally accredited, private institution of higher education, where:

(A) Oregon-based, generally accredited includes any post-secondary institution described in OAR 583-030-0005(2) or classified as exempt under ORS 348.604; and

(B) Private institution refers to any non-public post-secondary education institution.

(22) "Primary Review Summary" means a form provided or approved by the Public Health Division to schools and facilities for enclosure with records forwarded to the local health department for secondary review and follow up. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(23) "Primary Review Table" means a document provided by the Public Health Division for the judgment of compliance or non-compliance with the required immunizations.

(24) "Public Health Division" means the Oregon Health Authority, Public Health Division.

(25) "Record" means a statement relating to compliance with the requirements of ORS 433.267(1)(a) through (c) and these rules.

(26) "Restrictable Disease" means a communicable disease for which the local health department or administrator has the authority to exclude a child as described in OAR 333-019-0010 through 333-019-0014.

(27) "School Year" means an academic year as adopted by the school or school district (usually September through June).

(28) "Susceptible" means being at risk of contracting one of the diseases covered by these rules, by virtue of being in one or more of the following categories:

(a) Not being complete on the immunizations required by these rules;

(b) Possessing a medical exemption from any of the vaccines required by these rules due to a specific medical diagnosis based on a specific medical contraindication; or

(c) Possessing a nonmedical exemption for any of the vaccines required by these rules.

(29) "These Rules" means OAR 333-050-0010 through 333-050-0140.

(30) "Transferring Child" means a child moving from:

(a) One facility to another facility, only when records are requested in advance of attendance from a previous facility;

(b) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(c) A school in another state to a school in this state.

(31) "Up-to-Date" means not complete, currently on schedule and not subject to exclusion, based on the immunization schedule for spacing doses, as prescribed in OAR 333-050-0120.

(32) "Vaccine Educational Module" means a resource approved by the Public Health Division to fulfill the requirement of receiving information about the risks and benefits of immunization in order to claim a nonmedical exemption.

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

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 15-1986, f. & ef. 7-15-86; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0021; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

**333-050-0040**
**Statements (Records) Required**

(1) The statement initially documenting evidence of immunization, immunity or exemption under ORS 433.267(1)(a) through (c) must be on a Certificate of Immunization Status form or a form approved by the Public Health Division and include one or more of the following:

(a) Evidence of immunization signed by the parent, health care practitioner or an authorized representative of the local health department;

(b) A written statement of medical exemption signed by a physician or authorized representative of the local health department and approved by an authorized representative of the local health department;

(c) A written statement of immunity documentation approved by an authorized representative of the local health department;

(d) A written statement of nonmedical exemption signed by the parent, including documentation of completion of a vaccine educational module approved by the Public Health Division or signature of a health care practitioner verifying that the risks and benefits of immunizations have been discussed with the parent; or

(e) A written statement of disease history (immunity documentation) for varicella signed by a parent, physician or authorized representative of the local health department.

(2) If age appropriate, required for the child's grade level, and the child has not claimed an exemption or immunity documentation, a minimum of one dose each of the following vaccines must be received for new enterers prior to attendance: Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, Varicella, Haemophilus influenzae Type b vaccine and Diphtheria/Tetanus/Pertussis containing vaccine. (See Primary Review Table); [Table not included. See ED. NOTE.]

(3) Evidence of immunization shall include the month, day and year of each dose of each vaccine received and must be appropriately signed and dated to indicate verification by the signer.

(a) If evidence of immunization includes the month and year, but the day of the dose is not provided, the administrator shall attempt to get the day of immunization from the parent, the ALERT Immunization Information System or another source. If no day is obtainable, the administrator may use the last day of the month to assess the immunization status for the child.

(b) Pre-signed Certificate of Immunization Status forms without vaccine dates are not allowed.

(c) If a Certificate of Immunization Status form is signed but not dated, the person who receives the form at the school or facility may date the form with the date it was received.

(4) The school or facility may choose to complete or update a Certificate of Immunization Status form, by transcribing dates from, attaching and referencing on the form, one or more of the following records listed in subsections (a) through (f) of this section.

(a) A health care practitioner documented immunization record;

(b) An unsigned record on health care practitioner or clinic letterhead;

(c) An unsigned record printout from the statewide immunization information system, ALERT IIS. ALERT IIS records may be placed in the student's file without transcription onto a Certificate of Immunization Status as long as the printout represents a complete or up-to-date immunization history. If the ALERT IIS record is an update to the Certificate of Immunization Status, it may be attached to the original certificate without transcription;

(d) An unsigned record printout from a computer system approved by the Public Health Division as specified in OAR 333-050-0060(5). Record printouts for Public Health Division-approved computer systems may be placed in the student's file without transcription onto a Certificate of Immunization Status as long as the printout represents a complete or up-to-date immunization history, and includes a history of chickenpox disease if present;

(e) A written statement signed and dated by the parent; or

(f) A statement electronically mailed by the parent.

(5) The Certificate of Immunization Status form must be signed and dated by the person transcribing the information.

(6) When a transferring student enters an Oregon school, the receiving school will attempt to obtain immunization records from the previous school. If immunization records are not immediately available, the receiving school may, according to school policy, allow the student to enroll conditionally. If immunization records are not received, the school will include the student on the Primary Review Summary report.

(7) If the student transfers to a new school district, except when the move is due to the normal progression of grade levels, such as to a junior high or senior high from a feeder school, the receiving school shall ensure that the transferred records are on a signed Certificate of Immunization Status form or another Public Health Division-approved form. The original transferred records that are not on an approved form shall be attached to a Certificate of Immunization Status form and the form shall be marked with a reference to the attached records, signed, and dated by the person transcribing the information on the form.

(8) The records relating to the immunization status of children in schools shall be transferred to the receiving schools pursuant to ORS 326.575(2) within 30 days.

(9) When a new enterer is admitted in error to a school or facility without an immunization history, immunity documentation or appropriately signed exemption, the school or facility may contact the local health department to request that an Exclusion Order for No Record be issued, or include the student on the Primary Review Summary report.

(10) When a child is determined by the facility, school or school district to be homeless and does not have a completed Certificate of Immunization Status on file with the school, the student will be allowed to enroll conditionally.

(a) If immunization records are not received the school will include the student on the Primary Review Summary report or contact the local health department to request that an Exclusion Order for No Record be issued with an exclusion date of not less than 30 days after initial attendance.

(b) School staff shall make every effort to help the family compile an immunization record for the student, including requesting a record from a previous school, ALERT IIS or a previous medical provider.

(11) Where a child attends both a facility and a school, the school is responsible for reporting and for enforcing these rules in accordance with the school and facility vaccine requirements. However, because of the need for outbreak control when school is not in session, the facility administrator will be responsible for requesting that the parent also provide an up-to-date Certificate of Immunization Status to the facility. If the parent does not comply, the facility administrator shall inform the parent that in the event of a case of vaccine preventable disease the child may be excluded until it is determined that the child is not susceptible or the local health authority has determined that the risk of exposure within the school or facility has passed.

(12) Evidence of nonmedical exemption must include documentation that the parent has completed a vaccine educational module approved by the Public Health Division or signature from a health care practitioner verifying that risks and benefits of immunization have been discussed with the parent. Information provided must be consistent with information published by the Centers for Disease Control and Prevention, including epidemiology, the prevention of disease through use of vaccination, and the safety and efficacy of vaccines.

(a) The Public Health Division will make available to parents a no-cost internet based vaccine educational module.

(A) Criteria for the vaccine educational module must include:

(i) Information consistent with information published by the Centers for Disease Control and Prevention;

(ii) Information about the benefits and risks of each vaccine for which a parent is claiming a nonmedical exemption;

(iii) Information about the epidemiology, prevention of disease through use of vaccination, and the safety and efficacy of vaccines; and

(B) A person who wishes to have a vaccine educational module approved by the Oregon Health Authority shall submit the module to the medical director of the Public Health Division, Immunization Program. For approval, the vaccine educational module must contain the substantive content of the internet based vaccine educational module made available by the Public Health Division. The medical director must review the module to determine if it meets the criteria in these rules including the requirement that a vaccine educational module present information that is consistent with information published by the Centers for Disease Control and Prevention. Approval or disapproval shall be made in writing. If the module is disapproved the medical director must explain the reasons for disapproval.

(C) An official certification receipt to provide documentation of completion of the vaccine educational module must be in a form approved by the Public Health Division, Immunization Program.

(b) A health care practitioner may discuss with the parent the risks and benefits of immunization and provide documentation for the parent to claim a nonmedical exemption.

(A) The information provided by the health care practitioner must contain the substantive content of Internet based vaccine educational mod-

ule made available by the Public Health Division. The content may be adjusted to meet individual parents' concerns.

(B) The health care practitioner will provide documentation to parents on a form prescribed by the Public Health Division that the practitioner has provided vaccine information to the parent.

(c) Parents claiming a nonmedical exemption must provide documentation of completion of a vaccine educational module or a signed document from a health care practitioner to the administrator.

(d) The administrator must keep a copy of the documentation of nonmedical exemption with the child's Certificate of Immunization Status.

(13) The evidence of nonmedical exemption from a health care practitioner or the viewing of the educational module must:

(a) Have occurred within 12 months of the parent signing of the nonmedical exemption; and

(b) Specify the vaccines about which information about the benefits and risks has been provided and for which a nonmedical exemption may be claimed for the child.

(14) When a child reaches the age of medical consent in Oregon, 15 years of age, the child may sign his or her own Certificate of Immunization Status and complete the process for obtaining a nonmedical exemption.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 15-1986, f. & ef. 7-15-86; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0030; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

**333-050-0050**
**Immunization Requirements**

(1) For purposes of this section, immunization against the following diseases means receipt of any vaccine licensed by the United States Food and Drug Administration (or the foreign equivalent) for the prevention of that disease.

(2) For purposes of ORS 433.267(1), immunizations are required as follows (see Primary Review Table to determine the number of required doses for a child's age or grade):

(a) Diphtheria/Tetanus/Pertussis containing vaccine (DTaP) — Five doses must be received unless:

(A) The fourth dose was given at, within four days prior to or after the fourth birthday, in which case the child is complete with four doses; or

(B) The third dose of Diphtheria/Tetanus containing vaccine was received at, within four days prior to or after the seventh birthday, in which case the child is complete with three doses.

(b) Polio — Four doses must be received unless:

(A) The third dose was given at, within four days prior to or after the fourth birthday, in which case the child is complete with three doses of polio vaccine; or

(B) The student is 18 years of age or older. Polio vaccination at or after the 18th birthday is not required.

(c) Measles — Two doses must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. The second dose must be received at least 24 days after first dose.

(d) Rubella — One dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable.

(e) Mumps — One dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable.

(f) Haemophilus influenzae Type b (Hib) — Up to four doses depending on the child's current age and when previous doses were administered.

(g) Hepatitis B — Up to three doses must be received. If the first dose was received at or after 11 years of age and the second dose is received at least four months after dose one, the child is complete with two doses. Vaccine doses given four days or fewer before the 11th birthday are acceptable.

(h) Varicella — Up to two doses must be received, depending on the child's age when the first dose was administered. The first dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. Second dose, if required, must be received at least 24 days after first dose.

(i) Hepatitis A — Two doses must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. Beginning school year 2008–2009, the requirement for Hepatitis A vaccine will be phased in by grade. (See Primary Review Table.) [Table not included. See ED. NOTE.]

(j) Tetanus/Diphtheria/Pertussis booster (Tdap) — One dose must be received at or after seven years of age, unless the last Diphtheria/Tetanus containing vaccine was given less than five years ago.

(3) Interrupted series: If there is a lapse of time between doses longer than that recommended by the standard described in OAR 333-050-0120, the schedule should not be restarted. Immunization may resume with the next dose in the series.

(4) A child shall not be excluded from school for failing to receive a required vaccine if the State Health Officer has determined that there is a vaccine shortage and that is the reason the child has not received the vaccine. Any vaccine that has been waived due to a vaccine shortage will be required at the next review cycle, once the shortage has been lifted. The Public Health Division shall notify local health departments, schools and facilities of any shortages that affect their procedures under these rules.

(5) The local public health officer, after consultation with the Public Health Division, may allow a child to attend a school or facility without meeting the minimum immunization requirements in case of temporary local vaccine shortage.

(a) The local health department shall provide a letter signed by the local health officer to the parent of the affected student detailing which vaccines the student is being exempted from. The letter must state that the student will receive an Exclusion Order if the student's record is not updated with the missing doses prior to the next exclusion cycle.

(b) A copy of the letter must be attached to the student's Certificate of Immunization Status on file at the school or facility.

(c) A photocopied form letter signed by the local health officer may be used by the local health department when the shortage is expected to affect more than one child.

(d) If the vaccine is still unavailable at the next exclusion cycle, the local health department, with the agreement of the Public Health Division, will not issue Exclusion Orders for the unavailable vaccine.

(6) The following immunity documentation satisfies the immunization requirements for the specified vaccines:

(a) Immunity documentation for Measles, Mumps or Rubella vaccination due to a disease history may be certified by a physician or an authorized representative of the local health department for a child who has immunity based on a health care practitioner's diagnosis;

(b) Immunity documentation for Measles, Mumps or Rubella vaccination due to a documented immune titer may be certified by a physician or an authorized representative of the local health department;

(c) Immunity documentation for Hib vaccination may be certified by a physician or authorized representative of the local health department for a child who experienced invasive Haemophilus influenzae Type b disease at 24 months of age or older;

(d) Immunity documentation for Varicella vaccine may be signed by the parent for history of varicella. The date of the disease is not required. This immunity documentation will be automatically authorized by the local health department.

(e) Immunity documentation for Varicella based on laboratory confirmation of immunity may be certified by a physician or authorized representative of the local health department;

(f) Immunity documentation for Hepatitis B vaccination based on laboratory confirmation of immunity or confirmation of carrier status may be certified by a physician or authorized representative of the local health department; and

(g) Immunity documentation for Hepatitis A vaccination based on laboratory confirmation of immunity may be certified by a physician or authorized representative of the local health department.

(7) Children possessing the following medical exemptions are susceptible to the diseases for which they are exempt from vaccination:

(a) Exemption for Measles, Mumps, Rubella or Varicella vaccination may be certified by a physician or an authorized representative of the local health department for a post-pubertal female when she is currently pregnant or there is a significant risk of her becoming pregnant within one month; and

(b) Exemption for one or more immunizations shall be established by a diagnosis based on a specific medical contraindication certified in a letter from the physician or an authorized representative of the local health department. The vaccines, medical diagnosis, practitioner's name, address and phone number must be documented and attached to the record.

(8) Exemptions and immunity documentation submitted to the school or facility must be in English.

(9) A child may attend a school or facility under ORS 433.267(1) if the child is up-to-date and remains up-to-date and in compliance with immunization schedules for spacing between doses presented in OAR 333-050-0120.

(10) If evidence is presented to the local health department that an Exclusion Order was issued in error because a vaccine was given within the four-day grace period recommended by the Advisory Committee on Immunization Practices as published in the General Recommendations on Immunization, the local health department shall rescind the Exclusion Order. The local health department shall notify the child's school or facility when an Exclusion Order is rescinded.

(11) In situations where a child's vaccine history presents an unusual problem not covered by these rules, the local health department may use its judgment to make a final determination of the child's immunization status.

(12) A nonmedical exemption from immunization requirement is allowed for one or more of the vaccines. Parents claiming a nonmedical exemption must select which vaccines a child is being exempted from by checking the appropriate boxes on the Certificate of Immunization Status and submit the Certificate of Immunization status and the documentation specified in OAR 333-050-0040(12)(a)(C) or 333-050-0040(12)(b)(B) to the school or facility.

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

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 12-2000, f. & cert. ef. 12-26-00; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0035; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 1-2008(Temp), f. & cert. ef. 1-8-08 thru 6-30-08; PH 6-2008, f. & cert. ef. 3-17-08; PH 16-2008(Temp), f. & cert. ef. 10-27-08 thru 4-20-09; Administrative correction 5-20-09; PH 13-2009(Temp), f. 12-17-09, cert. ef. 12-21-09 thru 6-18-10; Administrative correction 7-27-10; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

**333-050-0080**
**Exclusion**

(1) The date of exclusion shall be the third Wednesday in February.

(a) If additional exclusion cycles are conducted, the exclusion dates shall be set at no less than 14 calendar days from the date that the Exclusion Orders are mailed.

(b) Exclusion occurs when records have not been received or updated by the starting time of the school or facility on the specified exclusion day.

(2) The local health department shall use an Exclusion Order for Incomplete Immunization or Insufficient Information or an Exclusion Order for No Record depending upon the reason the child is found to be in non-compliance with ORS 433.267(1) and these rules:

(a) At least 14 days before the exclusion day, the local health department shall mail by first class mail an appropriately completed and signed order of exclusion to the parent of each child determined to be out of compliance with these rules.

(b) If a student is listed by the school as the "person responsible," the Exclusion Order will be sent to the student.

(c) In the event that the local health department has knowledge that the address of the parent provided on the Primary Review Summary form is incorrect, the local health department shall use all reasonable means to notify the parent, including inquiries to the school or facility administrator, to establish the appropriate mailing address and sending home from the school a copy of the Exclusion Order with the child.

(d) For all orders issued, one copy of the Exclusion Order shall be sent to the administrator and the local health department shall retain one copy. The local health department shall also retain copies of the records of children to be excluded until notification from the school or facility that such children are in compliance, or for one year.

(3) On the specified date of exclusion, the administrator shall exclude from school or facility attendance all children so ordered by the local health department until the requirements specified by the local health department are verified by the administrator in accordance with section (9) of this rule.

(4) The local health department shall maintain copies of immunization records of children excluded and shall maintain contact with administrators regarding the status of such children.

(5) If children whose records are not updated on the specified exclusion day arrive at their school or facility, the administrator shall make every effort to contact their parent by phone. The administrator shall place excluded children in a space away from the other children until their parent arrives to pick them up or until they are returned home by regular school district transportation.

(6) If the excluded children do not meet the requirements specified by the local health department in accordance with section (9) of this rule and do not return to school within four school days, it is the responsibility of the public school administrator, as proper authority, to notify the attendance supervisor of the unexcused absence. The attendance supervisor is required to proceed as required in ORS 339.080 and 339.090.

(7) Children who have been issued an Exclusion Order are not entitled to begin or continue in attendance in any school or facility in Oregon while the Exclusion Order is still in effect. Administrators who receive or are otherwise made aware of the records of a child from another school or facility containing an Exclusion Order that has not been cancelled shall notify the parent and immediately exclude the child until the requirements specified on the Exclusion Order are met and verified by the administrator.

(8) Students in treatment facilities or court-mandated residential correctional facilities, including but not limited to Oregon Youth Authority closed custody sites, are not subject to exclusion. The administrator of such treatment or residential correctional facilities must comply with all other provisions of these rules, including submission of the required reports as specified by these rules. The administrator must ensure that students have complete or up-to-date immunization records, a medical or nonmedical exemption or immunity documentation for all vaccines required for the student's grade.

(9) Compliance:

(a) For children excluded for insufficient information or incomplete immunizations, compliance will be achieved by submitting to the administrator one of the statements allowed in OAR 333-050-0040(1);

(b) For children excluded for no record, compliance will be achieved by submitting to the administrator evidence of immunizations that includes at least one dose of each vaccine required for that grade or age, a medical or nonmedical exemption or immunity documentation.

(c) When the administrator verifies that the required information has been provided or that an appropriate immunity documentation or medical or nonmedical exemption has been provided, the child shall be in compliance with ORS 433.267(1) and these rules and qualified for school or facility attendance.

(10) Twelve calendar days after the mandatory exclusion date, the administrator shall ensure that:

(a) The Primary Review Summary form returned from the local health department is updated by appropriately marking the current status of each child as specified (including children listed as having no record);

(b) The mathematics on the Primary Review Summary form are accurate including the number of children in the full school or children's facility, kindergarten and seventh grade with:

(A) The specified number of doses of each vaccine;

(B) Nonmedical exemptions for each vaccine;

(C) Nonmedical exemptions from each source, whether documentation from a health care practitioner or vaccine educational module;

(D) Nonmedical exemptions;

(E) Medical exemptions;

(F) Incomplete immunizations; and

(G) No record.

(c) A copy of the revised Primary Review Summary form is submitted to the local health department on that day. The administrator shall maintain a file copy of the updated Primary Review Summary form.

(11) The local health department shall review the updated Primary Review Summary form for mathematical accuracy. Any errors should be corrected by contacting the affected school or facility.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0050; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

**333-050-0095**
**School/Facility Compliance**

(1) In the event that a school or facility fails to comply with these rules, the local health department shall make a verbal, documented contact with the non-compliant school or facility that covers:

(a) The specific requirements of the state's immunization law and rules; and

(b) Establishes a four-working-day time frame for the school or facility administrator to comply.

(2) If the school or facility still fails to comply, the local health department shall notify the Public Health Division of the name and address of the school or facility.

(3) The local health department shall send to the Public Health Division, via mail, electronic mail or facsimile, documentation of contacts made with the non-compliant school or facility.

(4) Within five working days of notification by the local health department, the Public Health Division shall send a certified letter to the non-compliant school or facility that:

(a) Notifies the school or facility that it is out of compliance and how it is out of compliance with the immunization law and rules;

(b) Establishes seven calendar days to comply before the matter is referred to the Attorney General's office; and

(c) Notifies the school or facility that a civil penalty may be imposed if the school or facility does not comply within seven calendar days.

(5) The Public Health Division shall send copies of the letter to the Child Care Division of the Employment Department, the Department of Education and/or the school district superintendent as appropriate.

(6) The Public Health Division shall notify the local health department of the new due date for compliance.

(7) If the school or facility does not comply by the new due date, the local health department shall notify the Public Health Division.

(8) The Public Health Division may impose a civil penalty on a school or facility that does not comply with the immunization law or rules after a notification of non-compliance. Civil penalties will be imposed as follows:

(a) One day late in complying: $100;

(b) Two days late in complying: $200;

(c) Three days late in complying: $300;

(d) Four days late in complying: $400;

(e) Five days or more late in complying: $500 per day until there is compliance.

(9) A notice of imposition of civil penalties shall comply with ORS 183.745.

(10) The Public Health Division shall forward all documentation of contacts to the Attorney General's office for action if the school or facility does not comply by the new date.

Stat. Auth.: ORS 431.262, 433.004, 433.273

Stats. Implemented: ORS 431.262, 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: OHD 26-2001, f. & cert. ef. 12-4-01; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

**333-050-0100**
**Follow Up**

(1) In the event that the local health department receives records that are original documents from a school or facility, the local health department shall return such records to the administrator.

(2) The administrator shall be responsible for updating records each time the parents, health care practitioner, or an authorized representative of the local health department provides evidence of immunization or exemption for each child.

(3) Information on disease restrictions for schools and facilities can be found in OAR 333-019-0010 and 333-019-0014. When there is a case of restrictable disease, the parent of a susceptible child must be notified verbally or in writing by the local health department, school or children's facility administrator or designee when the child is to be excluded and for how long the exclusion will occur.

(4) The administrator shall maintain a system to track and report susceptible persons. The local health department may request that the list of persons susceptible to a disease be sorted by classroom, grade, or school. The administrator will provide the list within one calendar day of the local health department's request in order to facilitate appropriate disease control measures.

(5) The local health department or the Public Health Division may conduct school or facility record validation surveys to ensure compliance with ORS 433.235 through 433.280 and these rules.

(6) The local health department may issue Exclusion Orders as needed for compliance with these rules during the validation survey process.

(7) The Public Health Division may issue Exclusion Orders when the Public Health Division is the recognized Public Health Authority in the county.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0055; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

**333-050-0110**
**Annual Reporting Requirements**

(1) The local health department shall submit a County Immunization Status Report to the Public Health Division annually no later than 23 calendar days after the third Wednesday in February.

(2) On or before the last day of April, the Public Health Division shall publicize a summary of the immunization status of children in schools, children's facilities, kindergarten and seventh grade attending schools and facilities for each local public health jurisdiction.

(3) On or before May 15, the local health department shall make available to each school and children's facility in the area served by the local health department immunization rates, by disease, of children in the local area:

(a) Compiled from school reports for kindergarten through 12th grade combined; and

(b) Calculated from ALERT IIS for children 19 months up to kindergarten age.

(4) The local health department may request assistance from the Oregon Health Authority in calculating the rates described in section (3) of this rule.

(5) The administrator of the school or children's facility must make available a summary of the immunization status, for the school or children's facility and local area, by 30 days after the first day of school and by 30 days after the third Wednesday in February.

(a) The summary of immunization status for the school or children's facility and local area must include:

(A) The percentage of children complete for immunizations by vaccine;

(B) The percentage of children with nonmedical exemptions by vaccine;

(C) The percentage of children with no record;

(D) The percentage of children incomplete for one or more vaccine;

(E) The percentage of children with medical exemptions for one or more vaccine;

(F) The number of enrolled children for whom documentation of immunization status is required at the school or children's facility;

(G) The number of enrolled children for whom documentation of immunization status is not required at the school or children's facility;

(H) The number of enrolled children 18 months of age and younger who are not required to have completed the full series of vaccines required before kindergarten because of their age.

(b) Rates must be made available:

(A) In the main office

(B) On the school or children's facility website, if available. Rates may be posted on a social media website, such as Facebook, if this is the primary website for the school or children's facility. Public school rates must also be made available on the district website.

(C) To parents, in electronic or paper format, in a clear and easy to understand manner.

(c) Children's facilities shall make rates available based on the school calendar in the local area.

(d) Rates may include immunization data collected in the previous school year.

(6) Schools and children's facilities for which immunization records are required for fewer than 10 enrolled children are exempt from the requirements of OAR 333-050-0110(5). These sites must still comply with the reporting requirements specified in OAR 333-050-0060 and 333-050-0080.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0060; OHD 26-2001, f. & cert. ef. 12-4-01; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16

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**Rule Caption:** Oregon Housing Opportunities in Partnership Program
**Adm. Order No.:** PH 14-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 9-3-15
**Notice Publication Date:** 8-1-2015
**Rules Adopted:** 333-022-3000

**Subject:** The Oregon Health Authority, Public Health Division, HIV Community Services Program is permanently adopting rules to govern the administration of the Oregon Housing Opportunities in Partnership Program. The program currently has policies and procedures but must formalize these through the rulemaking process. The adopted rules reflect current practice and the manner in which the program has been operating. They do not represent any significant change in who is eligible, service provided, or how the program services will be administered.
**Rules Coordinator:** Brittany Sande—(971) 673-1291

**333-022-3000**
**Oregon Housing Opportunity in Partnership Program**

(1) The Oregon Housing Opportunities in Partnership (OHOP) program provides housing services to eligible applicants who have received a medical diagnosis of HIV or AIDS. OHOP assists clients in achieving and maintaining housing stability so as to avoid or reduce homelessness and improve their access to, and engagement in, HIV care and treatment. OHOP is designed to promote client housing stability and act as a bridge to long-term assistance programs, such as Section 8, or to self-sufficiency. Participation in OHOP is voluntary and conditional.

(2) The OHOP program is funded through grants from the U.S. Department of Housing and Urban Development and other funds. OHOP is a needs-based program and not an entitlement program.

(3) The OHOP program is administered and operated in accordance with the OHOP Program Policy and Procedures manual, dated July 1, 2015, adopted and incorporated by reference. The manual may be obtained by visiting www.healthoregon.org/hiv.

Stat. Auth.: ORS 413.014, 431.250
Stats Implemented: ORS 431.250
Hist.: PH 14-2015, f. 8-28-15, cert. ef. 9-3-15

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**Rule Caption:** EMS Provider Exams
**Adm. Order No.:** PH 15-2015
**Filed with Sec. of State:** 8-28-2015
**Certified to be Effective:** 9-3-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 333-265-0023
**Subject:** The Oregon Health Authority (OHA), Public Health Division is permanently amending Oregon Administrative Rule 333-265-0023 relating to the Emergency Medical Services and Trauma Systems (EMS/TS) Program. In response to the Oregon EMS for the Future Workgroup, SB 234 was passed during the 2011 Oregon legislative session requiring the EMS/TS program to amend rules in order to align EMS provider classifications with the National Registry of Emergency Medical Technicians (NREMT) national standards. The EMS/TS program continues to update its rules to align with these standards and is now adopting and implementing the NREMT standards for provider exams.
**Rules Coordinator:** Brittany Sande—(971) 673-1291

**333-265-0023**
**EMS Provider Examinations**

(1) EMR Exam:

(a) In order to be licensed as an EMR, a candidate shall complete and pass both a cognitive and practical examination.

(b) The EMR cognitive and practical examination must be administered by an entity approved by the Authority to conduct EMR courses and shall use a cognitive and practical exam approved by the Authority.

(2) EMT Exam:

(a) In order to be licensed as an EMT, a candidate shall complete and pass both the cognitive and practical examination designated by the National Registry of Emergency Medical Technicians (NREMT.)

(b) The Authority has adopted the NREMT exam standard: Emergency Medical Technician, Psychomotor Examination User Guide; November 1, 2011, incorporated by reference.

(c) An EMT examination for licensure will be administered by a licensing officer and hosted by a teaching institution that offers EMT courses.

(d) An EMT practical examination must be attended by a licensing officer approved by the Authority who:

(A) Is licensed in Oregon at least at the level of examination they are administering with a minimum of two years field experience at that level or above and is in good standing with the Authority; and

(B) Has completed any training offered by the Authority explaining the role and responsibilities of a licensing officer.

(3) AEMT Exam:

(a) In order to be licensed as an AEMT, a candidate shall complete and pass both the cognitive and practical examination designated by the NREMT.

(b) The Authority has adopted the NREMT exam standard: Advanced Level Examination Coordinator Manual; August 1, 2013, incorporated by reference.

(c) An AEMT practical examination is an NREMT examination offered at various times during the year by the Authority. An AEMT candidate may also take the appropriate practical examination in any state.

(4) EMT-Intermediate Exam: In order to be licensed as an EMT-Intermediate, a candidate shall complete and pass a practical examination in accordance with OAR 333-265-0024.

(5) Paramedic Exam:

(a) In order to be licensed as a Paramedic, a candidate shall complete and pass both the cognitive and practical examination designated by the NREMT.

(b) The Authority has adopted the NREMT exam standard: Advanced Level Examination Coordinator Manual; August 1, 2013, incorporated by reference.

(c) A Paramedic practical examination is an NREMT examination offered at various times during the year by the Authority. A Paramedic candidate may also take the appropriate practical examination in any state.

(6) The Authority shall establish the passing scores for EMR and EMT-Intermediate exams. The NREMT shall establish the passing scores for EMT, AEMT and Paramedic exams.

(7) A candidate seeking accommodation under the American with Disabilities Act shall notify:

(a) The NREMT for the EMT, AEMT or Paramedic exam; or

(b) The Authority for the EMR or EMT-Intermediate exam.

(c) The NREMT or the Authority shall consider and act on the request in accordance with its policies and relevant laws.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the National Registry of EMT's website: www.nremt.org.]

Stat. Auth.: ORS 682.017, ORS 682.208, & ORS 682.216
Stats. Implemented: ORS 682.017, 682.208, 682.216
Hist.: PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13; PH 15-2015, f. 8-28-15, cert. ef. 9-3-15

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## Oregon Housing and Community Services Department
## Chapter 813

**Rule Caption:** Adopts rules for the Wildfire Damage Housing Relief Account
**Adm. Order No.:** OHCS 7-2015(Temp)
**Filed with Sec. of State:** 8-18-2015
**Certified to be Effective:** 8-18-15 thru 2-13-16
**Notice Publication Date:**
**Rules Adopted:** 813-330-0000, 813-330-0010, 813-330-0020, 813-330-0030, 813-330-0040, 813-330-0050, 813-330-0060
**Subject:** The 2015 Oregon Legislature allocated funds to be used to assist persons who have experienced a loss of housing due to wildfires. The rules will establish the criteria, application process and use of the funds in the Wildfire Damage Housing Relief Account.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-330-0000**
**Purpose**

OAR chapter 813, division 330 is promulgated to accomplish the general purpose of ORS 458.620 which establishes the Wildfire Damage Housing Relief Account within the Oregon Housing Fund and designates the Housing and Community Services Department as the state agency responsible for administering the Account. The Wildfire Damage Housing Relief Account assists certain persons who have experienced a loss of housing due to wildfire by providing funds.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

**813-330-0010**
**Definitions**

(1) "Account" means the Wildfire Damage Housing Relief Account, revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative costs" means costs that are incurred in the process of administering the program.

(3) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon

(4) "Households of lower income" means persons or families residing in Oregon whose federal adjusted gross income for the tax year preceeding the year in which a loss of housing due to wildfire occurs does not exceed 75 percent of the federal poverty guidelines.

(5) "Wildfire" has the definition as used in ORS 477.089.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

**813-330-0020**
**Administration**

(1) The department will directly provide program services and assistance.

(2) In the event of a wildfire, the department may consider the referral of a household from a local, state, or federal disaster relief agency or human service agency to determine eligibility of the household for program services. The department may also allow households to apply directly for assistance with verification of the loss of housing or eligibility from a local, state, or federal disaster relief agency or human service agency.

(3) The department may request information including, but not limited to, the scope and location of the wildfire, the type of housing damaged, proof of ownership, and the previous years' household income.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

**813-330-0030**
**Eligible Applicants**

Services shall be available to households of lower incomes who meet the following criteria:

(1) The applicant must be an Oregon resident at the time of the loss or damage to housing.

(2) The loss or damage to housing must have occurred in Oregon on or after July 1, 2015.

(3) The home lost or damaged due to wildfire must be the household's primary residence.

(4) The household must own the home that is lost or damaged due to wildfire.

(5) The home that is lost or damaged due to wildfire may be a stick built home, a site built home, or a recreational vehicle that is the primary residence of the applicant.

(6) The home damaged by the wildfire is considered uninhabitable unless repaired or replaced.

(7) To receive assistance, the household must submit an application to the department along with verification of loss, proof of ownership, and proof of income.

(8) The household must apply for grant funds within one hundred and eighty (180) days after the loss of the home.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

**813-330-0040**
**Use of Funds**

(1) The funds in the account will only be allocated to households of lower income who have lost their home due to wildfire.

(2) The department may provide assistance in the form of a grant, not to exceed $5,000, to an eligible applicant.

(3) If approved claims for assistance exceed the available balance of the account, the department may make pro-rata reductions in grant amounts to increase the number of claimants who receive assistance.

(4) The department shall verify eligibility of applicants.

(5) The department shall award a grant to a qualified household within thirty (30) days of receiving a complete application from that household.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

**813-330-0050**
**Reporting and Recordkeeping**

The department shall maintain records documenting the applications received for grants distributed through the department as required by its retention schedules.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

**813-330-0060**
**Appeal Procedure**

(1) An applicant aggrieved by the department's action with respect to its program obligations may submit a written request to the department for its review of such contested action and such request must be submitted within thirty (30) days of that action.

(2) Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to, review of provided information.

(3) If the department accepts the review request, the requester of the review must produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review is a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) A timely request for department review by an aggrieved person and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16

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**Rule Caption:** Amends the definitions, requirements and administration of the Emergency Housing Assistance Program.
**Adm. Order No.:** OHCS 8-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 813-046-0000, 813-046-0011, 813-046-0021, 813-046-0040, 813-046-0045, 813-046-0050, 813-046-0061, 813-046-0065, 813-046-0070, 813-046-0081
**Rules Repealed:** 813-046-0100
**Subject:** The Emergency Housing Account (EHA) establishes a program to assist homeless persons and those at-risk of becoming homeless. The program name was modified to align with the commonly used name and acronym (EHA). The proposed rule amendments clarify the program purpose, eligibility requirements and expand the eligible/targeted population. The rule text has been standardized to ensure consistency in definitions and alignment with HUD definitions when appropriate, to incorporate common administrative requirements, to accommodate department reporting deadlines and records retention requirements and to verify the rules are consistent with the master grant agreement elements. Rules were renumbered as necessary to provide the same format and sequencing between all homeless programs.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-046-0000**
**Purpose and Objectives**

OAR chapter 813, division 46, is promulgated to accomplish the general purpose of ORS 458.505 and 458.600 to 458.650, and particularly ORS 458.650, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Emergency Housing Assistance program addressed in this division is one such program subject to department administration and has as its purpose the funding of local homeless programs to assist low- and very-low-income homeless persons and those persons who are at risk of becoming homeless, including, but not limited to, veterans, persons more than 65 years of age, disabled persons, farmworkers and Native Americans to attain housing stability.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0010; OHCS

3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0011**
**Definitions**

All words and terms that are used in OAR chapter 813, division 46 are defined in the Act, and in 813-005-0005 and 813-005-0015 and below. As used in OAR chapter 813, division 46, unless the context indicates otherwise:

(1) "Account" means the Emergency Housing Account, revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(3) "Assistant director" means the department's assistant director for the housing stabilization programs.

(4) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(5) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(6) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(7) "Director" means the department director as appointed by the governor.

(8) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(9) "Funding application" means the subgrantee agency's application to the department for a program grant.

(10) "HMIS" means the Homeless Management Information System.

(11) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with department categorical definitions. Categorical definitions are contained in the program manual.

(12) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(13) "Household income" means the total household income from all sources before taxes. Income under this definition may be reduced by deductions allowed by the department in compliance with program requirements. Income does not include assets or funds over which the applicant or household has no control.

(14) "HUD" means the U.S. Department of Housing and Urban Development.

(15) "Low-income household" means a household with an annual household income that is more than fifty (50) percent but at or below eighty (80) percent of the area median income based on HUD determined guidelines as adjusted for family size.

(16) "Program" or "EHA" means the Emergency Housing Assistance program administered by the department pursuant to this division and other applicable law.

(17) "Program manual" or "manual" means the Emergency Housing Assistance Program Operations Manual as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(18) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules and the manual), executive orders, local ordinances and codes.

(19) "Program services" means allowable services for emergency shelter, transitional housing, supportive in-home services, rapid re-housing, homelessness prevention services, veterans housing stabilization services, data collection, and community capacity building activities as defined in the department program manual and eligible for funding under the program.

(20) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition and health care, and accessing needed services.

(21) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(22) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(23) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program services at the local level.

(24) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(25) "Work plan" or "plan" means the subgrantee agency's plan for use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

(26) "Very-low income household" means a household with an annual household income that is fifty (50) percent or less of the area median income based on HUD determined guidelines, adjusted for family size.

(27) "Veteran" means a person who served in the U.S. Armed Forces with an honorable discharge or is receiving a nonservice-connected pension from the U.S. Department of Veterans Affairs as further defined in ORS 408.225 and the program manual.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0020; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0021**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(7) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the program manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0040**
**Client Eligibility**

(1) Program services shall be available to low income and very low income households including but not limited to veterans, persons more than 65 years of age, persons with disabilities, farmworkers and Native Americans that are homeless or at risk of being homeless and that are otherwise eligible.

(2) A subgrantee agency may consider a household's self-declaration or referral of a household from local, state or federal human service agencies if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) Eligibility documentation for veterans housing stabilization services must include service discharge papers or DD214 identification document. Self-declaration of veteran status is not acceptable.

(4) A subgrantee agency will not require residency within its service area or legal status as a client eligibility criterion.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0045**
**Use of Funds**

(1) Program funds will be used for homeless and at-risk of homelessness services within the allowable program components and activities as further defined in the funding agreement and program manual.

(2) Subgrantee agencies may require all recipients of program services to participate in programs or activities that will increase household self-sufficiency.

(3) Program funds granted or otherwise awarded shall not be used by a subgrantee agency to replace funds currently being received from other sources, available or reasonably expected to be available to the subgrantee agency but may be used to supplement existing funds or to support existing programs or establish new programs.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; Renumbered from 813-046-0030 by OHCS 1-2014, f. & cert. ef. 1-27-14; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0050**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local or regional continuum of care, local service providers, advocates, clients, businesses, churches, citizens, governments, and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0061**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with all required reports, data, and financial statements by department determined submission deadlines including:

(a) Program reports detailing the progress made toward meeting program performance measures and service delivery objective(s), and

(b) Fiscal reports detailing all administrative and program costs;

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0065**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for

the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee agency assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) 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.

(5) Appeals will be addressed to the assistant director or their designee whose decision may be further appealed to the department director.

(6) 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 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0070**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

**813-046-0081**
**Review by Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14; Administrative correction, 5-2-14; OHCS 8-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Amends the definitions, requirements and administration of the Low Income Rental Housing Program
**Adm. Order No.:** OHCS 9-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 813-049-0008, 813-049-0045, 813-049-0055, 813-049-0065, 813-049-0075, 813-049-0080
**Rules Amended:** 813-049-0001, 813-049-0005, 813-049-0010, 813-049-0020
**Subject:** The Low Income Rental Housing Fund Program applies funds appropriated by the Legislature to the department for providing rental housing assistance to very low income households. The proposed rules are intended to clarify the purpose of the program and standardize the definitions for specific terms relative to the program. New rules will clarify and expand upon the criteria for program assistance and the existing requirements.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-049-0001**
**Purpose and Objectives**

OAR chapter 813, division 49, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Low Income Rental Housing Fund addressed in this division is one such program subject to department administration and has as its purpose the funding to provide rental housing assistance for very low income households.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)
Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0005**
**Definitions**

All words and terms that are used in OAR chapter 813, division 49 are defined in sections 1 through 10, chapter 716, Oregon Laws 1991, or as provided in OAR 813-005-0005 and below. As used in OAR chapter 813, division 49, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Assistant Director" means the department's assistant director for housing stabilization programs.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(6) "Director" means the department director as appointed by the governor.

(7) "Fund" means the Low Income Rental Housing Fund;

(8) "HUD" means the U.S. Department of Housing and Urban Development.

(9) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(10) "Income" means income from all sources of each member of the household not including income from employment of children under the age of 18.

(11) "Program" or "LIRHF" means the Low Income Rental Housing Fund program administered pursuant to this division and other applicable law.

(12) "Program manual" or "manual" means the Low Income Rental Housing Fund Program Operations Manual as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(13) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules and the manual), executive orders, local ordinances and codes.

(14) "Program services" means allowable rent assistance including rent arrears, security and utility deposits, intended to defray the cost of rent as defined in the department program manual and eligible for funding under the program.

(15) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition, health care and accessing needed services.

(16) "Service area" means the specific geographic area or region within which the subgrantee agency provides program services directly or by contract.

(17) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(18) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65; a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program services at the local level.

(19) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(20) "Very low income household" means a household with an annual household income that is fifty (50) percent or less of the area median income based on HUD determined guidelines adjusted for household size.

(21) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)
Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0008**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(7) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the (program manual) regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec 3(4)
Hist.: OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0010**
**Use of the Fund**

(1) Program funds will be used for very low income households within the allowable program services and activities as further defined in the funding agreement and program manual.

(2) The department or its delegates shall review and may approve requests to make payments to defray the cost of rent for dwelling units for very low income households based on the criteria established herein. In considering such requests, the department or its delegates shall:

(a) Restrict the payment of funds to programs that defray the cost of rent for dwelling units for very low income households; and

(b) Maximize coordination of services at the local level to carry out the provisions of Sections 1 through 10, Oregon Laws 1991.

(3) In reviewing requests to make payment to defray the cost of rent for dwelling units for very low income households, the department or its delegates may provide a preference in directing such payments to households not eligible for other public housing assistance.

(4) Ensure that all households receiving program assistance are provided the opportunity to participate in programs or activities that will increase household self-sufficiency.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)
Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0020**
**Client Eligibility**

Program services shall be available to very low income households and others who may be eligible under 813-049-0010.

Stat. Auth: ORS 458.355
Stats. Implemented: Ch. 716, OL 1991
Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0045**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local or regional continuum of care, local service providers, advocates, clients, businesses, churches, citizens, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist.: OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0055**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with all required reports, data and financial statements by the department determined submission deadlines including:

(a) Program reports detailing the progress made toward meeting program performance measures and service delivery objective(s) and;

(b) Fiscal reports detailing all administrative and program costs.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist.: OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0065**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) 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.

(5) Appeals will be addressed to the assistant director whose decision may be further appealed to the department director.

(6) 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 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0075**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 9-2015, f. & cert. ef. 8-25-15

**813-049-0080**
**Review by Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 9-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Clarifies the purpose, amends the definitions, requirements and administration of the Housing Stabilization program
**Adm. Order No.:** OHCS 10-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 813-051-0000, 813-051-0010, 813-051-0020, 813-051-0030, 813-051-0040, 813-051-0050, 813-051-0060, 813-051-0070, 813-051-0080, 813-051-0090
**Rules Repealed:** 813-051-0100
**Subject:** The Housing Stabilization program provides safe, stable and affordable housing for eligible households that are homeless or at-risk of becoming homeless through the provision of housing stabilization services. The amendments reflect the alignment of common definitions amends the duration and amount of assistance that can be provided due to TANF requirements, encourages the development of a memorandum of understanding between local branch offices and subgrantee agencies, incorporates consistency and flexibility in language to accommodate program changes and adopts specific administrative requirements. Removes the waiver rule and relocates it to the department's general rules.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-051-0000**
**Purpose and Objectives**

OAR chapter 813, division 51 is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, and particularly ORS 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Housing Stabilization Program addressed in this division is one such program subject to department administration and has as its purpose the funding of housing stabilization services for eligible family households that are homeless or at risk of becoming homeless. This program is partially funded through the Department of Human Services (DHS) and by agreement with DHS is administered by the department. .

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0010**
**Definitions**

All words and terms that are used in OAR chapter 813, division 51 are defined in the Act, and in 813-005-0005 and below. As used in OAR chapter 813, division 51, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Assistant director" means the department's assistant director for the housing stabilization programs.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements of ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "DHS" means the Department of Human Services for the state of Oregon.

(6) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(7) "Director" means the department director as appointed by the governor.

(8) "Eligible family household" means a low-income household with an eligible dependent child or children living together as one economic unit or a single low-income pregnant woman in the month before her due date as defined in the department program manual.

(9) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(10) "Funding application" means the subgrantee agency's application to the department for a program grant.

(11) "HHS" means the U.S. Department of Health and Human Services.

(12) "HMIS" means the Homeless Management Information System.

(13) "Homeless" means an eligible family household that lacks a fixed, regular and adequate nighttime residence or is at risk of becoming homeless in accordance with department categorical definitions. Categorical definitions are contained in the program manual.

(14) "Household income" means the total household income from all sources before taxes. Income under this definition may be reduced by deductions allowed by the department in compliance with program requirements.

(15) "Low-income" means total annual household income at or below the DHS determined percentage of the federal poverty line and defined in the program manual.

(16) "Maintenance of effort" means DHS allowable nonfederal cash and in-kind contributions used to supplement program services in an amount that equals the subgrantee agency's program allocation as defined in the program manual and approved by the department.

(17) "Poverty guidelines" or "poverty line" means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.

(18) "Program" or "HSP" means the Housing Stabilization Program administered by the department pursuant to this division and other applicable law.

(19) "Program manual" or "manual" means the Housing Stabilization Program Operations Manual as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(20) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local and federal laws and regulations (including these rules, other applicable department rules and the manual), executive orders, local ordinances and codes.

(21) "Program services" means allowable temporary financial assistance, housing support services, auxiliary services, case management and data collection as defined in the department program manual and eligible for funding under the program.

(22) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(23) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(24) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer program services at the local level.

(25) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(26) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of

its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0020**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible family households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(7) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the program manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0030**
**Client Eligibility**

(1) Program services will be available to low-income eligible family households that are homeless or at risk of being homeless and that are otherwise eligible in accordance with program requirements.

(2) A subgrantee agency may consider an eligible family household's self-declaration or referral from local, state or federal human service agencies, if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) Members of an eligible family household must be United States citizens or have qualified non-citizen status and be Oregon residents.

(4) An eligible family household may receive program services for a maximum length of time as determined by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0040**
**Use of Funds**

(1) Program funds may be used for housing stabilization services within the allowable program components and activities as further defined in the funding agreement and program manual.

(2) Program services provided to an eligible family household are subject to a maximum dollar amount limitation set by the department.

(3) Program funds granted or otherwise awarded shall not be used by a subgrantee agency to replace funds currently being received from other sources, available or reasonably expected to be available to the subgrantee agency but may be used to supplement these existing funds or to support existing programs or establish new programs.

(4) Subgrantee agency will supplement the program by providing maintenance of effort funding through cash or in-kind contributions equal to the amount of program funds received from the department. Maintenance of effort funds resources must be from DHS allowable sources and approved by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0050**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by local DHS branch offices(s), the local or regional continuum of care, local service providers, advocates, clients, businesses, churches, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0060**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and has an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with all required reports, data and financial statements by the department determined submission deadlines including:

(a) Program reports detailing the progress made toward meeting program performance measures and service delivery objective(s) and;

(b) Fiscal reports detailing all administrative and program costs.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the

federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representatives request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely and otherwise in a manner satisfactory to the department through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0070**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee agency assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) 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.

(5) Appeals will be addressed to the assistant director or designee whose decision may be further appealed to the department director.

(6) 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.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0080**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

**813-051-0090**
**Review by Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department in a timely manner, that enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 10-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Amends the definition, requirements and administration of the Emergency Solutions Grant program
**Adm. Order No.:** OHCS 11-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 813-145-0026
**Rules Amended:** 813-145-0000, 813-145-0010, 813-145-0020, 813-145-0030, 813-145-0040, 813-145-0050, 813-145-0060, 813-145-0070, 813-145-0080
**Rules Repealed:** 813-145-0090
**Subject:** The Emergency Solutions Grant program (ESG) assists persons and persons who are at-risk of homelessness to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. The rules were amended in order to be in compliance with the HEARTH act and current HUD regulations. Other changes were made to provide consistency and alignment among all homeless programs to enable their use as a continuum of services. Addi-

tional changes were made to increase flexibility within the rules in response to changing requirements, funding or other circumstances.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-145-0000**
**Purpose and Objectives**

OAR chapter 813, division 145, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, and particularly ORS 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Emergency Solutions Grant program addressed in this division is one such program subject to department administration and has as its purpose the funding of local homeless programs intended to assist homeless households and those at risk to homelessness to quickly regain permanent housing stability.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0010**
**Definitions**

All words and terms are used in OAR chapter 813, division 145, are defined in the Act and in 813-005-0005 and below. As used in OAR chapter 813, division 145, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Assistant director" means the department's assistant director for the housing stabilization programs.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(6) "Director" means the department director as appointed by the governor.

(7) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(8) "Funding application" means the subgrantee agency's application to the department for a program grant.

(9) "HMIS" means the Homeless Management Information System.

(10) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with HUD categorical definitions. Categorical definitions are contained in the program manual.

(11) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(12) "Household income" means the total household income from all sources before taxes. Income under this definition may be reduced by deductions allowed by the department in compliance with program requirements.

(13) "HUD" means the U.S. Department of Housing and Urban Development.

(14) "Program" or "ESG" means the Emergency Solutions Grant program administered by the department pursuant to this division and other applicable law.

(15) "Program manual" or "manual" means the Emergency Solutions Grant operations manual as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(16) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules and the manual), executive orders, local ordinances and codes.

(17) "Program services" means allowable services for street outreach, emergency shelter, rapid re-housing, homelessness prevention and data collection as defined in the department program manual and eligible for funding under the program.

(18) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(19) "Subcontractor" or "subrecipient" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(20) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program services at the local level.

(21) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(22) "Work plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0020**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(7) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices),

applicable local, state and federal laws, rules (including the program manual), regulations, executive orders and local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0026**
**Client Eligibility**

Program services shall be available to homeless and at risk of homelessness individuals, families and households in accordance with HUD and department categorical definitions as defined in the program manual and to the degree permitted by funding levels.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0030**
**Use of Funds**

(1) Program funds will be used only for homeless and at-risk of homelessness services within the allowable HUD program components and activities as further defined in the funding agreement and program manual.

(2) Program funds granted or otherwise awarded shall not be used by a subgrantee agency to replace funds currently being received from other sources, available or reasonably expected to be available to the subgrantee agency, but may be used to supplement existing funds or to support existing programs or establish new programs.

(3) Use of program funds must be in accordance with the allowable homeless services category percentages as determined by the department.

(4) A subgrantee agency will provide matching funds for the program through cash or in-kind contributions equal to the amount of program funds received from the department. Matching funds must be from HUD allowable sources and approved by the department.

Stat. Auth.: ORS 458.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14: OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0040**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved in writing by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local or regional continuum of care, local service providers, advocates, clients, businesses, churches, governments, and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0050**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with all reports, data, and financial statements by department determined submission deadlines including:

(a) Program reports detailing the progress made toward meeting program performance measures and service delivery objective(s), and

(b) Fiscal reports detailing all administrative and program costs.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of 5 years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely and otherwise in a manner satisfactory to the department through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0060**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee agency to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee agency assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) The department will provide adequate notice and opportunity for appeal prior to a remedial action that terminates organizational eligibility for program funding for cause.

(5) Appeals will be addressed to the Assistant Director or designee whose decision may be further appealed to the department director.

(6) 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.

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

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0070**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

**813-145-0080**
**Review by Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 11-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Amends the definitions, requirements and administration for the Low Income Home Energy Assistance program
**Adm. Order No.:** OHCS 12-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 813-200-0052, 813-200-0075, 813-200-0080, 813-200-0085
**Rules Amended:** 813-200-0001, 813-200-0005, 813-200-0010, 813-200-0020, 813-200-0030, 813-200-0050
**Rules Repealed:** 813-200-0040
**Rules Ren. & Amend:** 813-200-0060 to 813-200-0090
**Subject:** The Low Income Home Energy Assistance program assists low income households with their energy needs through a variety of means, including assistance payments, client education and weatherization activities. The proposed rules clarify the program requirements, amend the name of the program, and ensure the consistency of the definitions for common terms. The amendments also align the rule language to be consistent with other program rules, the program operations manual and state plan.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-200-0001**
**Purpose and Objectives**

OAR chapter 813, division 200, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The department has been designated as the state agency responsible for implementing the Low Income Home Energy Assistance Act in Oregon. OAR chapter 813, division 200, describes the Low-Income Home Energy Assistance Program (LIHEAP), which operates through a network of subgrantee agencies at the local level. The objective of the program is to assist low-income households with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0005**
**Definitions**

All terms used in OAR chapter 813, division 200, are defined in the Act, in 813-005-0005 and below. As used in OAR chapter 813, division 200, unless otherwise indicated by the context:

(1) "Administrative costs" means all program costs that are not directly related to the delivery of program services.

(2) "Assistant director" means the department's assistant director for the housing stabilization programs.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to, continued department authority and funding capacity as well as the subgrantee agency, to the satisfaction of the department, satisfying the terms of the funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Crisis assistance" means the assistance provided to help low-income households into meeting crisis situations such as supply shortages, loss of household heat, minor fuel source repairs, furnace repairs and other situations approved by the department as described in the LIHEAP state plan and in the manual.

(6) "Department" means the Housing and Community Services Department for the state of Oregon.

(7) "Director" means the department director as appointed by the governor.

(8) "Eligible services" or "program services" means the services described in OAR 813-200-0030 or allowed thereunder.

(9) "Energy assistance payment" means a payment made under this program to or on behalf of an eligible household.

(10) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee

agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(11) "Funding application" means a subgrantee agency's application to the department for program funds.

(12) "Heat included in rent" means renters whose heating costs are included as an undifferentiated part of their rent payments.

(13) "HHS" means the U.S. Department of Health and Human Services.

(14) "Home energy" means the type of energy or fuel, including but not limited to fuel oil, natural gas, electricity, wood or propane, supplying the major portion of the household's heat.

(15) "Home energy supplier" means a supplier who either delivers home energy in bulk to households, or provides home energy continuously via wire or pipe.

(16) "Household" means any individual residing alone, a family with or without children or a group of individuals who are living together as one economic unit and purchase residential energy in common.

(17) "Household income" means the total household income before taxes from all sources. Income may be reduced by deductions allowed by the department. Income does not include assets or funds over which the members of the household have no control.

(18) "Incidental fees" means charges imposed by the home energy suppliers other than the actual cost of energy or fuel and includes reconnection charges and deposits.

(19) "Low-income household" means a household with a gross annual income as specified in the manual.

(20) OPUS" means the energy assistance database.

(21) "Poverty guidelines" or "poverty line" means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.

(22) "Program" or "LIHEAP" means the Low-Income Home Energy Assistance Program administered by the department pursuant to this division and other applicable law.

(23) "Program manual" or "manual" means the LIHEAP & OEAP Operations Manual, as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(24) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, the LIHEAP state plan, and the manual), executive orders, local ordinances and codes.

(25) "Program services" means allowable services, assistance and activities as defined in the manual and eligible for funding under this program.

(26) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(27) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(28) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program activities and services at the local level.

(29) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(30) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its funding application and is included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0000; HSG 2-1993, f. & cert. ef. 4-2-93; Renumbered from 813-200-0000; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0010**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services and activities at the local level. In a service area where a community action agency exists, the community action agency has the conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion and in compliance with HHS requirements.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services or activities in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, take applications, verify household eligibility and contract with and monitor local home energy suppliers to determine that the clients are receiving proper benefits and services. Whenever appropriate, program participants will be assisted in accessing other services designed to meet longer-term needs.

(5) Subgrantee agency representatives will attend and participate in program training made available or conducted by the department.

(6) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(7)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(8) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the (program manual) regulations, executive orders, local ordinances and codes.

(9) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds made to a household client or home energy supplier, or otherwise.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0005; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0020**
**Client Eligibility**

(1) Program services will be available to households that are determined eligible by the subgrantee agency in compliance with program requirements, including the program manual. These requirements include, but are not limited to:

(a) Meeting income guidelines for the program as described in the manual; and

(b) Having a demonstrated utility cost as defined in the manual.

(2) The period of time relevant to the determination of a household's eligibility is no more than the past 12 months and not less than the 30 days immediately preceding the date of application by the household for program services, unless the department gives prior approval to a modification of the required time period.

(3) An eligible household may normally only apply for assistance from the subgrantee agency in the service area in which the household resides.

(4) Households in similar circumstances shall receive similar benefits to the extent of program funding.

(5) Both renters and homeowners may be eligible under the program.

(6) An applicant living in an institution is not eligible for program services. Institutions include hospitals, licensed domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, and temporary protective facilities such as domestic violence shelters and homeless shelters.

(7) Residents of governmental subsidized housing may be eligible for:

(a) A regularly available energy assistance payment, depending on household size and household income, as defined in the program manual.

(b) A crisis payment under crisis assistance guidelines contained in the LIHEAP state plan or program manual.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0010; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0030**
**Use of Funds**

Program funds will be used for allowable program services and activities for eligible households in compliance with program requirements. Allowable services include:

(1) Heating assistance, including:

(a) A payment to a home energy supplier for the costs of home energy. A payment may also be made for supplier charges other than those that apply to the actual cost of energy or fuel, and may include reconnection charges and deposits as well as charges incurred by a household for eligible services delivered before or after the household is determined to be eligible for program services. Payments may not be used to cover on-bill loan financing without prior approval from the department; and

(b) Direct payments to an eligible household including payments to eligible renters whose heat is included in rent or who pay heating costs directly to their landlord, to a household if the household's home energy supplier has not signed a contract with the subgrantee agency in the service area, and for reimbursement or prepayment for home energy costs as in the case of bulk oil or wood deliveries, as outlined in the manual.

(2) Weatherization assistance as defined in the LIHEAP state plan and manual.

(3) Crisis assistance as defined in the LIHEAP state plan and manual.

(4) Client education as defined in the LIHEAP state plan and manual.

(5) Leveraging incentive fund assistance as defined in the LIHEAP state plan and manual to the extent of available funding.

(6) A subgrantee agency shall assist applicants in determining program services most appropriate for the household.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0015; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0050**
**Coordination with Home Energy Suppliers**

(1) Subgrantee agencies must execute a contract with a home energy supplier in order for the home energy supplier to receive an energy assistance payment under the program.

(2) Subgrantee agencies must use a contract template provided or approved by the department in fulfillment of its obligation under subsection (1) hereof.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0025; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0052**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by local service providers, advocates, clients, businesses, churches, citizens, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist. : OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0075**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be identified and required in the manual and requested by the department.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department through the use of OPUS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist. : OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0080**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program

funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) 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 or otherwise reduces a subgrantee agency's proportional share of funding.

(5) Appeals will be addressed to the assistant director whose decision may be further appealed to the department director.

(6) 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 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist. : OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0085**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist. : OHCS 12-2015, f. & cert. ef. 8-25-15

**813-200-0090**
**Review By Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 - 458.620, 458.650
Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0030; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; [Suspended by OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Renumbered from 813-200-0060, OHCS 12-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Adds purpose and amends the definitions, requirements and administration of the Oregon Energy Assistance Program.
**Adm. Order No.:** OHCS 13-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 813-202-0000, 813-202-0052, 813-202-0054, 813-202-0056, 813-202-0058
**Rules Amended:** 813-202-0005, 813-202-0010, 813-202-0020, 813-202-0030, 813-202-0050, 813-202-0060
**Rules Repealed:** 813-202-0015, 813-202-0040
**Subject:** The Oregon Energy Assistance program provides low-income households with electric bill payment assistance. The proposed rules add a purpose statement, provides consistent definitions for common terms, provide clarification by removing language that is defined within the program manual, adds compliance requirements and modifies the responsibilities of energy suppliers to be in compliance with current requirements.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-202-0000**
**Purpose and Objectives**

OAR chapter 813, division 202, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Oregon Energy Assistance program is one such program subject to department administration and has as its purpose the funding of local energy assistance programs to assist low-income households with electric bill payment assistance.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 757.612
Hist.: OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0005**
**Definitions**

All terms used in OAR chapter 813, division 202, are defined in the Act, in 813-005-0005, and in this 813-202-0005 and below. As used in OAR 813, division 202, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to the delivery of program services.

(2) "Assistant director" means the department's assistant director for the housing stabilization programs.

(3) "Community action agency" or "CAA" means a private nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent to, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of the funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Department" means the Housing and Community Services Department for the state of Oregon.

(6) "Director" means the department director as appointed by the governor.

(7) "Eligible services" or "program services" means the services described in OAR 813-202-0030 or allowed thereunder.

(8) "Energy assistance" means the services provided under the program and may include energy bill payment assistance and client education.

(9) "Energy assistance payment" means a payment made under this program to or on behalf of an eligible household.

(10) "Energy supplier" means a company that provides electricity continuously via wires as the source of energy supplying heat to a household.

(11) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(12) "Funding application" means the subgrantee agency's application to the department for a program grant.

(13) "HHS" means the U.S. Department of Health and Human Services.

(14) "Household" means any individual living alone, a family with or without children or a group of individuals who are living together as one economic unit and who purchase residential electricity in common.

(15) "Household income" means the total annual household income before taxes from all sources. Income may be reduced by deductions allowed by the department. Income does not include assets or funds over which the members of the household have no control.

(16) "Low-income household" means a household with a gross annual income as specified in the manual.

(17) "OPUS" means the energy assistance database.

(18) "Originating Utility" means the utility from which the funds being expended under the program were collected.

(19) "Poverty guidelines" or "poverty line" means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.

(20) "Program" or "OEAP" means the Oregon Energy Assistance Program.

(21) "Program manual" or "manual" means the LIHEAP and OEAP Operations Manual as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(22) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, the LIHEAP state plan, and the manual), executive orders, local ordinances and codes.

(23) "Program services" means allowable services, assistance and activities as defined in the manual and eligible for funding under this program.

(24) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(25) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(26) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program activities and services at the local level.

(27) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(28) "Utility service territory" means the geographic area in Oregon within which a utility provides electricity service.

(29) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its funding application and is included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 & 757.612
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0010**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services or activities in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, take applications, verify household eligibility and contract with and monitor the local energy suppliers to determine that the clients are receiving proper benefits and services. Whenever appropriate, program participants will be assisted in accessing other services designed to meet longer-term needs.

(5) Subgrantee agency representatives will attend and participate in program training made available or conducted by the department.

(6) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(7)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(8) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the (program manual) regulations, executive orders, local ordinances and codes.

(9) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds made to a household client or energy supplier, or otherwise.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 & 757.612
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0020**
**Client Eligibility**

(1) Program services will be available to households that are determined eligible by the subgrantee agency in compliance with program requirements including the program manual. These requirements include, but are not limited to:

(a) Meeting income guidelines for the program as described in the manual; and

(b) Having a demonstrated electric utility cost as defined in the manual.

(2) The period of time relevant to the determination of a household's eligibility is no more than the past 12 months and not less than the 30 days immediately preceding the date of application by the household for program services, unless the department gives prior approval to a modification of the required time period.

(3) An eligible household may normally only apply for assistance from the subgrantee agency in the service area in which the household resides.

(4) Households in similar circumstances shall receive similar benefits to the extent of program funding.

(5) Both renters and homeowners may be eligible under the program.

(6) An applicant living in an institution is not eligible for program services. Institutions include hospitals, license domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, and temporary protective facilities such as domestic violence shelters and homeless shelters.

(7) Residents of governmental subsidized housing may be eligible for:

(a) A regularly available energy assistance payment, depending on household size and household income, as defined in the program manual.

(b) A crisis payment under crisis assistance guidelines contained in the program manual.

(8) Households in similar circumstances shall receive similar benefits to the extent of available program funding.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 & 757.612
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 3-2005(Temp), f. & cert. ef. 11-9-05 thru 5-8-06; Administrative correction 7-21-06; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0030**
**Use of Funds**

(1) Program funds will be used for allowable program services and activities for eligible households in compliance with program requirements. Priority assistance shall be given to low-income consumers who are in danger of having their electricity service disconnected.

(2) Allowable program services include:

(a) Regular energy assistance that includes payments for the electricity costs of eligible households which the department makes to the energy suppliers on behalf of eligible households;

(b) Emergency energy assistance as defined in the manual to the extent of available funding; and

(c) Client education as defined in the manual.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 & 757.612
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-014 thru 7-25-14; Administrative correction, 5-2-14; OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0050**
**Coordination with Energy Suppliers**

(1) Subgrantee agencies must execute a contract with an energy supplier in order for the energy supplier to receive an energy assistance payment under the program.

(2) Subgrantee agencies must use a contract template provided or approved by the department in fulfillment of its obligation under subsection.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0052**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by local service providers, advocates, clients, businesses, churches, citizens, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0054**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be identified and required in the manual and requested by the department.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department through the use of OPUS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0056**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) 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 or otherwise reduces a subgrantee agency's proportional share of funding.

(5) Appeals will be addressed to the assistant director whose decision may be further appealed to the department director.

(6) 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 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0058**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 13-2015, f. & cert. ef. 8-25-15

**813-202-0060**
**Review By Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 13-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Amends the definitions, program requirements and administration of the Community Services Block Grant program.
**Adm. Order No.:** OHCS 14-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Adopted:** 813-210-0014, 813-210-0021, 813-210-0066, 813-210-0071, 813-210-0076
**Rules Amended:** 813-210-0001, 813-210-0009, 813-210-0025, 813-210-0050
**Rules Repealed:** 813-210-0040, 813-210-0055, 813-210-0065
**Rules Ren. & Amend:** 813-210-0015 to 813-210-0035, 813-210-0060 to 813-210-0081
**Subject:** The Community Services Block Grant program funds certain efforts to alleviate the causes and conditions of poverty in local communities. The proposed rules modify the purpose of the program to align with the federal description, provide consistent definitions for common terms, standardize and align language with other program rules, and amend the records retention requirements for the records.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-210-0001**
**Purpose and Objectives**

OAR chapter 813, division 210, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, and particularly ORS 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Community Services Block Grant program addressed in this division is one such program subject to department administration and has as its purpose to alleviate the causes and conditions of poverty in local communities by providing services and activities designed to increase self-sufficiency for low-income households.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0009**
**Definitions**

All words and terms that are used in OAR chapter 813, division 210, are defined in the Act, in 813-005-0005 and below. As used in OAR chapter 813, division 210, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Assistant director" means the assistant administrator for the housing stabilization programs.

(3) "Community Action Agency" or "CAA" means a private nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(6) "Director" means the department director as appointed by the governor.

(7) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and the subgrantee agency in form and substance satisfactory to the department, as a condition precedent for receipt of program funding from the department.

(8) "Funding application" means a subgrantee agency's application to the department for a program grant.

(9) "HHS" means the U.S. Department of Health and Human Services.

(10) "HMIS" means the Homeless Management Information System.

(11) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(12) "Low-income household" means a household with an annual household income at or less than 125% of the poverty line.

(13) "Migrant and seasonal farmworker organization" means a private nonprofit organization organized under ORS chapter 65 that serves migrant and seasonal farmworkers and their families.

(14) "Political activity" means:

(a) Directly or indirectly to attempt to influence or actually influence elections and/or nominations for political office;

(b) Directly or indirectly to solicit or coerce contributions for use in elections or in nominations for political office;

(c) Directly or indirectly to provide voters and prospective voters with transportation to polls or nomination caucuses or similar activities; or

(d) Directly or indirectly to provide assistance with an election, nomination or voter registration activity.

(15) "Population" means inhabitants of a political subdivision as enumerated by the U.S. Census, or official state estimates prepared by the Center for Population Research and Census at Portland State University.

(16) "Poverty guidelines" or "poverty line" means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.

(17) "Program" or "CSBG" means the Community Services Block Grant program administered by the department pursuant to this division and other applicable law.

(18) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules and other applicable department rules), executive orders, local ordinances and codes.

(19) "Program services" means allowable antipoverty services and activities designed to reduce and mitigate the impact of poverty by addressing the needs of low-income households.

(20) "Secretary" means the Chief Executive of the U.S. Department of Health and Human Services.

(21) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(22) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(23) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65 or a local government as defined in ORS 197.015 that is designated as a community action agency, migrant and seasonal farmworker organization or other eligible entity under ORS 458.505 with which the department has contracted to administer program services and activities at the local level.

(24) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(25) "Work Plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0000; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02, Renumbered from 813-210-0000; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0014**
**Administration**

(1) The department will contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has the right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion and in compliance with the CSBG state plan and CSBG Act's proportional share program requirement.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) Subgrantee agency representatives will attend and participate in department required program training made available or conducted by the department.

(6) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(7)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(8) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the (program manual) regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0021**
**Client Eligibility**

(1) Program services will be available to low-income households in need of assistance to address basic needs and/or barriers to achieving economic self-sufficiency.

(2) A subgrantee agency may consider a household's self-declaration or referral of a household from local, state, or federal human service agencies if no other verifiable documentation is available, to determine eligibility of that household for program services.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0025**
**Use of Program Funds**

(1) A subgrantee agency may use program funds to implement different strategic approaches designed to reduce or eliminate one or more conditions that block the achievement of economic self-sufficiency for low-income households. Such strategies must have measurable and potentially major impact on the causes of poverty in communities in the service area where poverty is a particularly acute problem.

(2) Program funds will be used for allowable program services and activities for eligible low-income households in compliance with program requirements. These services and activities may include, but are not limited to helping members of low-income households:

(a) Secure and retain meaningful employment;

(b) Attain an adequate education;

(c) Make better use of available income;

(d) Obtain and maintain adequate housing and a suitable living environment;

(e) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;

(f) Remove obstacles and solve problems that block the achievement of self-sufficiency;

(g) Achieve greater participation in the affairs of the community; and

(h) Make effective use of other programs related to the purpose of this OAR chapter 813, division 210.

(3) A subgrantee agency may also use program funds for a variety of services and activities intended to reduce or eliminate poverty conditions in communities in the service area, including but not limited to:

(a) Providing on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor;

(b) Coordinating and establishing linkages between government and other social service programs to assure the effective delivery of such services to low income households; and

(c) Encouraging the participation of private sector entities in community efforts to ameliorate poverty in the service area.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0005; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0010 by OHCS 6-2014, f. & cert. ef. 1-27-14; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0035**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by low-income households, local service providers, advocates, clients, businesses, churches, general community members, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0015; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0030 by OHCS 6-2014, f. & cert. ef. 1-27-14; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-210-0015, OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0050**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the basis for same, housing and income status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required or requested from time to time by the department, including but not limited to quarterly reports covering items set forth in OAR 813-210-0025(2) and (3), which shall be in a format prescribed by the department. Such quarterly reports shall be coded in such a way as to allow the linking and analysis of expenditures for each separate service funded by the program.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: 458.505 ORS 458.620, 458.650
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0025; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0066**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Minimally, the department will conduct an on-site monitoring once every three years and immediately after the first year for newly-designated community action agencies. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to the state plan and program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department.

(d) The department may offer training and technical assistance to the subgrantee; or if the department determines such training and technical assistance are not appropriate, prepare and submit to the secretary a report stating the reasons for such determination.

(e) The department, at its discretion, may offer the subgrantee assistance in the development of a corrective action plan. If a corrective action plan is allowed, the subgrantee must develop and submit the plan to the department within sixty days after being informed of the deficiency or deficiencies. The department will review and issue a decision on whether to approve or disapprove the plan within thirty days after receipt of the plan from the subgrantee. If disapproved, the department will provide the subgrantee agency with the reasons why the plan cannot be approved.

(4) The department will provide adequate notice and opportunity for a hearing prior to a remedial action that terminates organizational eligibility for program funding or otherwise reduces the proportional share of program funding for cause.

(5) Hearings will be addressed to and held before the assistant director or designee whose decision may be further appealed to the department director. Termination of the agency's program eligibility for program funds would require termination of its CAA designation which may be appealed to the governor in accordance with OAR 813-230-0000.

(6) The subgrantee agency may request within thirty days following notification of the department's final decision, a review by the HHS Secretary.

(7) A determination to terminate the subgrantee agency's CAA designation or reduce the proportionate share of funding of the agency is reviewable by the secretary. The secretary shall, upon request, review such determination. The review shall be completed not later than 90 days after the secretary receives from the department all necessary documentation relating to the determination to terminate the agency's CAA designation or reduce its proportional share of funding. If the review is not completed within 90 days, the determination of the state shall become final at the end of the 90th day.

(8) 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 456.555 and 458.235
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0071**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0076**
**Review By Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620, 458.650
Hist.: OHCS 14-2015, f. & cert. ef. 8-25-15

**813-210-0081**
**Reduction or Termination of CSBG Funding**

(1) No CAA or migrant and seasonal farmworker organization which received CSBG funding in the previous federal fiscal year shall have its present or future CSBG funding terminated or reduced below the proportional share of funding it received in the previous federal fiscal year unless, after notice and opportunity for hearing on the record, the department determines that cause existed for such termination or reduction, subject to the procedures and review by the director and Secretary for the United States Department of Health and Human Resources.

(2) For purposes of making a determination with respect to CSBG funding reduction or termination, the term "cause" includes but is not limited to:

(a) A statewide redistribution of CSBG funds to respond to:

(A) The results of the most recently available census or other appropriate data;

(B) The establishment of a new migrant and seasonal farmworker organization; or

(C) Severe economic dislocation; and

(b) The failure of a migrant and seasonal farmworker organization to comply with the terms of its CSBG contract with the Department or the Community Services Block Grant Act as amended by Public Law 101-501.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 8-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-210-0060, OHCS 14-2015, f. & cert. ef. 8-25-15

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**Rule Caption:** Amends the definitions, program requirements and administration of the Emergency Food Assistance program.
**Adm. Order No.:** OHCS 15-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 813-220-0001, 813-220-0005, 813-220-0010, 813-220-0015, 813-220-0020, 813-220-0030, 813-220-0050, 813-220-0060
**Rules Repealed:** 813-220-0070
**Subject:** The Emergency Food Assistance program provides lower income households in Oregon with food for their home use. The proposed rules clarify the purpose of the program, amend the definitions to provide clear and consistent definitions for common terms, and standardize and align language to be consistent with other department rules. The waiver rule has been repealed and included in the department's general rules.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-220-0001**
**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

**813-220-0005**
**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

**813-220-0010**
**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

**813-220-0015**
**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

**813-220-0020**
**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

**813-220-0030**
**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

**813-220-0050**
**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

**813-220-0060**
**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

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**Rule Caption:** Amends the definitions, the fund eligibility and designation of community action agencies.
**Adm. Order No.:** OHCS 16-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 813-230-0000, 813-230-0005, 813-230-0007, 813-230-0010, 813-230-0020
**Rules Repealed:** 813-230-0015
**Subject:** Oregon Housing and Community Services administer the federal anti-poverty programs through subcontracts with community action agencies. The rules clarify the department's authority, how community action agencies or other organizations may become eligible to provide program services, as well as how community action agencies are designated or terminated to provide program services.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-230-0000**
**Definitions**

(1) "Assistant director" means the department's assistant director for the housing stabilization programs.

(2) "Community action agency" or "CAA" means a private nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(3) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(4) "Director" means the department director as appointed by the governor

(5) "Governor" means the governor of the state of Oregon.

(6) "OHDC" means Oregon Human Development Corporation, a private, nonprofit agency which serves migrant workers and families.

Stat. Auth.: ORS 184.082 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0000; HSG 9-1993, f. & cert. ef. 10-1-93; Administrative correction 6-17-05; OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11; OHCS 16-2015, f. & cert. ef. 8-25-15

**813-230-0005**
**Administration of Antipoverty Programs**

(1) The department is authorized by the Oregon legislature as the state affordable housing finance agency and administrator of state and federal antipoverty programs. The federal antipoverty programs are the Community Services Block Grant, the Low-Income Energy Assistance Block Grant, the United States Department of Energy Weatherization Assistance Program, the Emergency Solutions Grant Program and any other federally funded program that benefits low-income Oregonians.

(2) The department administers the federal anti-poverty programs through subcontracts with community action agencies, the Oregon Human Development Corporation and other eligible entities under ORS 458.505.

(3) The Community Action Partnership of Oregon performs the function of providing advice and recommendations to the department regarding administration and funding of antipoverty programs.

Stat. Auth.: ORS 184.082 & 458.505-458.515
Stats. Implemented: ORS 458.505-458.515
Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0005; HSG 9-1993, f. & cert. ef. 10-1-93; Administrative correction 6-17-05; OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11; OHCS 16-2015, f. & cert. ef. 8-25-15

**813-230-0007**
**Funding Eligibility**

(1) A community action agency, the Oregon Human Development Corporation or any other eligible entity under ORS 458.505 may administer an antipoverty program to which ORS 458.505 or 458.510 applies only

if the entity has entered a contract for that purpose with the department, on terms established by the department.

(2) In an area of the state served by a community action agency, unless the department determines that the agency is incapable of effective program administration, the agency has the right of first refusal in a contract for antipoverty program administration.

(3) In an area of the state not served by a community action agency, the department may distribute federal antipoverty funds other than the Community Service Block Grant to an eligible entity that the department has identified as able to effectively serve low income populations because of the agency's established service delivery system.

(4) For each antipoverty program, allocation of program funds to service areas is subject to a formula established by the department prior to the allocation process. The department may modify a formula at any time in compliance with program requirements.

(5) The department may fund only one agency in a service area unless the department in its sole discretion decides to allow two agencies to operate within a common service area. The two agencies may so operate only if the department and the two agencies enter into a memorandum of agreement that ensures full access to the program services for all eligible persons in the service area and prevents duplication of services.

(6) To provide a program service or activity in the service area of an agency, the agency may subcontract with a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235 or a local government as defined in ORS 197.015.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 - 458.515
Hist.: OHCS 9-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; OHCS 1-2011, f. & cert. ef. 2-7-11; OHCS 16-2015, f. & cert. ef. 8-25-15

**813-230-0010**
**Designation of Community Action Agencies**

(1) CAAs established under the Economic Opportunity Act of 1964 or the direct successor to such CAAs, have been recognized by the department as designated CAAs for established service areas.

(2) Agencies eligible for recognition as a CAA are political subdivisions of the state; private, nonprofit community organizations and migrant/seasonal farm worker organizations. An applicant agency must demonstrate its programmatic and administrative capabilities for implementing and operating anti-poverty programs and must be able to document that the agency service area has a population of a least 50,000 individuals.

(3) New CAAs will be designated by the department for unserved areas of the state only if CAAs contiguous with or closest to the unserved areas decline to serve such areas.

(4) Except in situations where an agency's status as a CAA is terminated voluntarily or involuntarily, changes in service area designations shall be initiated at the local level and submitted to the department for review and approval or disapproval.

(5) Efforts to establish new CAAs in unserved areas of the state shall be initiated at the local level and submitted to the department for review and approval or disapproval.

Stat. Auth.: ORS 184.082 & 458.505-515
Stats. Implemented: ORS 458.505-515
Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0010; HSG 9-1993, f. & cert. ef. 10-1-93; OHCS 5-2004(Temp), f. & cert. ef. 12-17-04 thru 6-14-05; Administrative correction 6-17-05; OHCS 16-2015, f. & cert. ef. 8-25-15

**813-230-0020**
**Termination of Community Action Agencies**

(1) A CAA shall not be terminated by the state of Oregon unless, and after notice and opportunity for hearing, it has been determined that cause existed for termination.

(2) Such notice shall be sent to a CAA by the department and a hearing shall be held before the assistant director when in his or her opinion probable cause for termination exists.

(3) A CAA may appeal the assistant director's decision to the director for hearing on the record.

(4) A CAA may appeal the director's decision to the governor for hearing on the record.

(5) The decision to terminate a CAA will be transmitted to the Secretary for the U.S. Department of Health and Human Services for review within ten working days of that decision being finalized.

Stat. Auth.: ORS 184.082 & 458.505-515
Stats. Implemented: ORS 458.505-515
Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0020; HSG 9-1993, f. & cert. ef. 10-1-93; OHCS 5-2004(Temp), f. & cert. ef. 12-17-04 thru 6-14-05; Administrative correction 6-17-05; OHCS 16-2015, f. & cert. ef. 8-25-15

**Rule Caption:** Amends the definitions, requirements and administration of the State Homeless Assistance program.
**Adm. Order No.:** OHCS 17-2015
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 813-240-0001, 813-240-0005, 813-240-0010, 813-240-0020, 813-240-0041, 813-240-0050, 813-240-0060, 813-240-0070, 813-240-0080
**Rules Repealed:** 813-240-0090
**Rules Renumbered:** 813-240-0015 to 813-240-0035
**Subject:** The State Homeless Assistance program (SHAP) funds emergency shelters and the supportive services directly related to them in order to meet the emergency needs of the homeless. The proposed rule amendments modify the program name to align with a commonly used name and acronym, clarifies the program purpose, provides consistent definitions between rules and the master grant agreement, clarifies and standardizes language to be consistent with other department programs, amends the reporting and records retention requirements, repeals the waiver rule and adopts the language in the department's general rules.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-240-0001**
**Purpose and Objectives**

OAR chapter 813, division 240, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, and particularly ORS 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The State Homeless Assistance Program addressed in this division is one such program subject to department administration and has as its purpose the funding of emergency shelters and the supportive services directly related to them in order to meet the emergency needs of the homeless.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0005**
**Definitions**

All words and terms as used in OAR chapter 813, division 240 are defined in the Act, in OAR 813-005-0005 and below. As used in OAR chapter 813, division 240, unless the context indicates otherwise:

(1) "Administrative costs" means all costs that are not directly related to delivery of program services.

(2) "Assistant director" means the department's assistant director for the housing stabilization program.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(6) "Director" means the department director as appointed by the governor.

(7) "Emergency shelter" means any appropriate facility that has the primary purpose of providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless and the use of which does not require occupants to sign leases or occupancy agreements.

(8) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee

agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(9) "Funding application" means the subgrantee agency's application to the department for a program grant.

(10) "HMIS" means the Homeless Management Information System.

(11) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with department categorical definitions. Categorical definitions are contained in the program manual.

(12) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(13) "HUD" means the U.S. Department of Housing and Urban Development.

(14) "Program" or "SHAP" means the State Homeless Assistance Program administered by the department pursuant to this division and other applicable law.

(15) "Program manual" or "manual" means the State Homeless Assistance Program Operations Manual as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department's website.

(16) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(17) "Program services" means allowable services and activities related to emergency shelter funding and operation including, but not limited to, operational costs, shelter conversion or rehabilitation, shelter resident support services, and data collection as defined in the department program manual and eligible for funding under the program.

(18) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(19) "Subcontractor" or "subrecipient" means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235 or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(20) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015, with whom the department has contracted to administer program services at the local level.

(21) "Sufficiency" means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency's compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(22) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is a part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 - 458.515
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0000; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-240-0000; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0010**
**Administration**

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. The department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(7) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the program manual, regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 - 458.515
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0005; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0020**
**Client Eligibility**

(1) Program services will be available to households that are certified by the subgrantee agency as homeless.

(2) A subgrantee agency may consider a household's self-declaration or referral of a household from local, state or federal human service agencies, if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) A subgrantee agency will not require residency within its service area or legal status as client eligibility criteria.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0010; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0035**
**Use of Funds**

(1) Program funds will be used for homeless shelter services within the allowable program components and activities as further defined in the funding agreement and program manual.

(2) Program services shall not be utilized for purposes of rent or house payment to prevent eviction or foreclosure.

(3) Program funds granted or otherwise awarded shall not be used by the subgrantee agency to replace funds currently being received from other sources, available or reasonably expected to be available to the subgrantee agency, but may be used to supplement existing funds or to support existing programs or establish new programs.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 - ORS 458.515
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0015; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 6-2002, f. & cert. ef. 5-15-02; Renumbered from 813-240-0030 by OHCS 12-2014, f. & cert. ef. 1-27-14; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-240-0015, OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0041**
**Funding Application**

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved in writing by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this

funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local or regional continuum of care, local service providers, advocates, clients, businesses, churches, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0050**
**Reporting and Recordkeeping**

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with all required reports, data, and financial statements by department determined submission deadlines including:

(a) Program reports detailing the progress made toward meeting program performance measures and service delivery objectives; and

(b) Fiscal reports detailing all administrative and program costs.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely and otherwise in a manner satisfactory to the department through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: AFS 65-1985, f. & ef. 11-5-85; AFS 37-1988, f. 5-12-88, cert. ef. 5-12-88 (and corrected 5-18-88); HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0025; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0060**
**Compliance Monitoring; Remedies**

(1) The department will conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department will notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department will require the subgrantee agency to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) The department will provide adequate notice and opportunity for appeal prior to a remedial action that terminates organizational eligibility for program funding for cause.

(5) Appeals will be addressed to the assistant director or designee whose decision may be further appealed to the department director.

(6) 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 456.555
Stats. Implemented: ORS 458.505
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0030; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0070**
**Challenge of Subgrantee Action**

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

**813-240-0080**
**Review by Subgrantee**

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and

applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 17-2015, f. & cert. ef. 8-25-15

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## Oregon Military Department, Office of Emergency Management
## Chapter 104

**Rule Caption:** Amends rule to adopt by reference the current Attorney General's Model Rules of Procedure.
**Adm. Order No.:** OEM 2-2015
**Filed with Sec. of State:** 9-4-2015
**Certified to be Effective:** 9-4-15
**Notice Publication Date:**
**Rules Amended:** 104-001-0005
**Subject:** These permanent rules amend OAR 104-001-0005 by adopting the rulemaking process that became effective July 31, 2014, as opposed to the rulemaking process currently listed in the OAR that was established November 17, 1981.
**Rules Coordinator:** Genevieve Ziebell—(503) 378-2911, ext. 22221

**104-001-0005**
**Model Rules of Procedure**

The Office of Emergency Management adopts by reference the Attorney General's Model Rules of Procedure for the adoption of rules and conduct of proceedings, effective July 31, 2014.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the office of the Attorney General or Emergency Management]
Stat. Auth.: ORS 183 & 184
Stats. Implemented: ORS 183.341(1)
Hist.: ED 1-1982, f. & ef. 1-11-82; OEM 2-2015, f. & cert. ef. 9-4-15

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## Oregon State Marine Board
## Chapter 250

**Rule Caption:** Suspend the previous closure posted on the North Umpqua River.
**Adm. Order No.:** OSMB 9-2015(Temp)
**Filed with Sec. of State:** 8-25-2015
**Certified to be Effective:** 8-25-15 thru 9-30-15
**Notice Publication Date:**
**Rules Suspended:** 250-020-0102(T)
**Subject:** The obstruction in the river has been mitigated; the logs were removed. The river closure from Baker Wayside Park downstream to Deadline Falls is no longer needed.
**Rules Coordinator:** June LeTarte—(503) 378-2617

**250-020-0102**
**Boat Operations in Douglas County**

(1) No person shall operate a motorboat at a speed in excess of 10 MPH in the following areas:

(a) On Carter Lake;

(b) On Plat I Reservoir.

(c) Diamond Lake.

(2) No person shall operate a motorboat at a speed in excess of 5 MPH in the following areas:

(a) Within the Harbor limits of Salmon Harbor on Winchester Bay;

(b) On the Umpqua River in the vicinity of River Forks Park from a point 30 yards downstream (North) from the launching ramp to a point upstream 100 yards on each the North Fork and South Fork of the Umpqua River;

(c) On the Umpqua River within 300 feet of the boat launching ramp and designated swimming area at Scottsburg Park.

(3) Lemolo Lake:

(a) No person shall operate a motorboat in excess of a "slow — no wake" speed within 150 feet of the shore or pier line in a zone extending from the launch ramp at Lemolo Lake Resort south to Pool Creek Inlet, and from a point 200 feet south of Pool Creek Inlet south to the small unnamed island, and thence south from the south tip of the island across to the nearest peninsula;

(b) Boats shall not exceed a "slow — no wake" speed in the area from where U.S. Forest Service Road Number 2666 crosses the North Umpqua River, to a point 2,000 feet westward thereof;

(c) Boats shall not exceed a maximum speed of 40 MPH on all other waters of Lemolo Lake.

(4) No person shall operate a motorboat for any purpose on the following bodies of water:

(a) Amos and Andy Lakes;

(b) June Lake;

(c) Indigo Lake;

(d) Maidu Lake;

(e) Wolf Lake;

(f) Skookum Lake;

(g) Fish Lake;

(h) Buckeye Lake;

(i) Cliff Lake;

(j) Calamut Lake;

(k) Lucile Lake;

(l) Faller Lake;

(m) Lower Twin Lake;

(n) Upper Twin Lake;

(o) Lake in the Woods.

(5) Cooper Creek Reservoir: No person shall operate a motorboat in excess of:

(a) 40 MPH on the main body of the Reservoir;

(b) 5 MPH within the buoyed area of Rachelle Inlet; Pierce Canyon Inlet; Sutherlin Inlet and Douglas Inlet;

(c) 5 MPH within 200 feet of a boat launching ramp or designates swimming area.

(6) Ben Irving Reservoir: No person shall operate a motorboat in excess of:

(a) 35 MPH from the markers (identified by the letter "A") located where the reservoir narrows, downstream for approximately 1.2 miles to the dam;

(b) 5 MPH:

(A) From the markers (identified by the letter "A") located where the reservoir narrows, upstream for approximately one mile to the second set of markers (identified by the letter "B");

(B) Within 100 feet of the boat ramp as marked.

(c) No person shall operate a motorboat upstream from the second markers (identified by the letter "B") except that electric motors may be used;

(d) No boats shall be permitted within the log boomed area in the vicinity of the dam spillway.

(7) Galesville Reservoir: No person shall operate a motorboat in excess of:

(a) 40 MPH on the main body of the lake;

(b) 5 MPH along the north shore between the launch ramp and log boom, in the buoyed areas;

(c) 5 MPH between the buoy line at the upper end of the lake to the powerboat deadline as marked;

(d) Above the 5 MPH zone, as marked, no person shall operate a motorboat, except those propelled by electric motors;

(e) Persons operating a motorboat in excess of 5 MPH in the otherwise unrestricted portions of the lake shall proceed about the lake in a counter clockwise direction.

(8) No person shall operate a motorboat on the North Umpqua River between the boat ramp at Lone Rock Camp (approximate RM 32) upstream to Lemolo Lake.

(9) Loon Lake:

(a) Except for safe take-offs and landings, no person shall operate a motorboat in excess of a "slow-no wake" speed within 200 feet of the designated swimming area and boat mooring area at the BLM day use area, as marked. Boats towing skiers may exceed 5 MPH to extent necessary to maintain the skier in a skiing position, within 200 feet from the designated swimming area and boat mooring area only under safe conditions as outlined in this section. A safe take-off or landing will not be considered "safe" unless it can be accomplished without risk to any swimmer or craft within 200 feet from designated swimming area and boat mooring area. If a safe landing as thus defined is not possible, skiers must be picked up by the boat before coming within 200 feet from the designated swimming area and boat mooring area and brought to shore under usual speed restrictions (5 MPH within 200 feet of the designated swimming area and boat mooring area). Take-offs and landings are required to be made following the mandatory counter-clockwise pattern.

(b) Persons operating a motorboat in excess of 10 MPH shall proceed in a counter-clockwise direction in the otherwise unrestricted portions of the lake.

(c) No person shall operate a motorboat in excess of a "slow—no wake" speed within the buoyed area extending from the north shore of the cove at Fish Haven Resort in a southwest direction across the lake to the end of the prominent point of land on the south shore of the lake, as marked.

(10) Hemlock Lake: No person shall operate a motorboat, except those propelled by electric motors.

(11) A person must not operate a boat for any purpose on the North Umpqua River from Baker Wayside Park downstream to Deadline Falls in Idleyld Park.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110, 830.175 & 830.185

Hist.: MB 20, f. 3-20-63; MB 29, f. 6-17-66; MB 32, f. 9-14-66; MB 34, f. & ef. 6-2-67; MB 41, f. 9-18-68; MB 47, f. 7-14-70, ef. 8-11-70; MB 74(Temp), f. 5-18-76, ef. 6-1-76 thru 9-28-76; MB 82, f. & ef. 4-19-77; Renumbered from 250-020-0083; MB 4-1981(Temp), f. & ef. 4-17-81; MB 7-1981, f. & ef. 11-16-81; MB 4-1987, f. 4-20-87, ef. 5-1-87; MB 21-1987, f. 12-31-87, ef. 1-1-88; MB 5-1995, f. & cert. ef. 7-14-95; OSMB 8-2000, f. & cert. ef. 12-1-00; OSMB 7-2002, f. & cert. ef. 10-15-02; OSMB 1-2006, f. & cert. ef. 3-28-06; OSMB 7-2006(Temp), f. 8-15-06, cert. ef. 9-5-06 thru 9-30-06; Administrative correction 10-16-06; OSMB 7-2007, f. & cert. ef. 7-2-07; OSMB 3-2008, f. 4-11-08, cert. ef. 4-26-08; OSMB 10-2012(Temp), f. 8-16-12, cert. ef. 8-19-12 thru 8-25-12; OSMB 11-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 8-31-12; Administrative correction 9-20-12; OSMB 4-2015, f. 4-30-15, cert. ef. 5-1-15; OSMB 8-2015(Temp), f. & cert. ef. 8-10-15 thru 9-30-15; Temporary suspended by OSMB 9-2015(Temp), f. & cert. ef 8-25-15 thru 9-30-15

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## Physical Therapist Licensing Board
## Chapter 848

**Rule Caption:** New standard of practice for use of telehealth in the delivery of physical therapy services.
**Adm. Order No.:** PTLB 2-2015
**Filed with Sec. of State:** 8-27-2015
**Certified to be Effective:** 9-1-15
**Notice Publication Date:** 8-1-2015
**Rules Adopted:** 848-040-0180
**Rules Amended:** 848-040-0100
**Subject:** Adoption of new standards of practice for the delivery of physical therapy services by use of telehealth technologies. Including but not limited to assessment or consultation, that can be safely and effectively provided using synchronous two-way interactive video conferencing , or asynchronours video communication, in accordance with generally accepted healthcare practices and standards. For purposes of these rules, "telehealth service" also means, or may be referred to, as "telepractice, teletherapy, or telerehab."
**Rules Coordinator:** James Heider—(971) 673-0203

**848-040-0100**
**Definitions**

As used in this Division:

(1) "Authentication" means the process by which the licensee reviews and validates the accuracy of the record entry. By authenticating a record entry, the licensee certifies that the services described were performed by the authenticating licensee or performed by a person under that licensee's supervision.

(2) "IDEA" means Individuals with Disabilities Education Improvement Act.

(3) "IEP" means an Individualized Education Plan developed for a child/student qualified under the IDEA program.

(4) "IFSP" means an Individualized Family Services Plan developed for a child qualified under the IDEA Early Intervention Program.

(5) "Licensee" means a physical therapist or a physical therapist assistant and includes a temporary permit holder.

(6) "Patient" means one who seeks and receives physical therapy services. For purposes of these rules, patient may include a person receiving services in a home or clinical setting, a student in a school setting, a child receiving early intervention services, a resident of a care facility, or an animal.

(7) "Permanent Record" means the final version of the record of each evaluation, reassessment or treatment provided to a patient which becomes part of the patient's medical record.

(8) "Physical therapy intervention" means a treatment or procedure and includes but is not limited to: therapeutic exercise; gait and locomotion training; neuromuscular reeducation; manual therapy techniques (including manual lymphatic drainage, manual traction, connective tissue and therapeutic massage, mobilization/manipulation of soft tissue or spinal or peripheral joints, and passive range of motion); functional training related to physical movement and mobility in self-care and home management (including activities of daily living (ADL) and instrumental activities of daily living (IADL)); functional training related to physical movement and mobility in work (job/school/play), community, and leisure integration or reintegration (including IADL, work hardening, and work conditioning); prescription, application, and, as appropriate, fabrication of devices and equipment (assistive, adaptive, orthotic, protective, or supportive); airway clearance techniques; integumentary repair and protective techniques; electrotherapeutic modalities; physical agents and mechanical modalities; and patient related instruction and education.

(9) "Plan of care" means a written course of physical therapy treatment established by a physical therapist following an initial evaluation which integrates the evaluation data collected to determine the degree to which physical therapy interventions are likely to achieve anticipated goals and expected outcomes.

(10) "Record" means a written account of the detailed information gathered from each evaluation, reassessment, and the treatment provided to a patient. This documentation may be used to create the separate, permanent record, or it may serve as the permanent record.

(11) "Student" means a child ages 3 to 21 who are enrolled in an educational institution and who qualifies for services under IDEA or Section 504 of the Rehabilitation Act, or other designated plan of care, or child ages 0-2 who qualifies under the IDEA Early Intervention Program.

(12) "Student PT or Student PTA" means a person enrolled in a CAPTE accredited physical therapist or physical therapist assistant program and who is providing patient care as part of the required clinical education.

(13) "Telehealth service" means a physical therapy intervention, including assessment or consultation, that can be safely and effectively provided using synchronous two-way interactive video conferencing, or asynchronous video communication, in accordance with generally accepted healthcare practices and standards. For purposes of these rules, "telehealth service" also means, or may be referred to, as "telepractice, teletherapy, or telerehab."

(14) "Domiciled" a person is domiciled in this state if the person's place of abode is in the state and the person intends to remain in the state or, if absent, to return to it.

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.160, 688.010, 688.210

Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07; PTLB 2-2008, f. 12-16-08, cert. ef. 1-2-09; PTLB 1-2010, f. 2-16-10, cert. ef. 3-1-10; PTLB 2-2015, f. 8-27-15, cert. ef. 9-1-15

**848-040-0180**
**Standards for Telehealth Services**

(1) A Licensee may provide telehealth services to a patient who is domiciled or physically present in the state of Oregon at the time the services are provided. An aide may not provide telehealth services.

(2) Telehealth services provided must conform to the scope and standards of practice and documentation as provided in Oregon Revised Statutes 688.010 through 688.201 and these Division 40 rules. Telehealth services must be at least equivalent to the quality of services delivered in-person.

(3) Prior to the initiation of telehealth services, a Licensee shall obtain the patient's consent to receive the services via telehealth. The consent may be verbal, written, or recorded and must be documented in the patient's permanent record.

(4) When providing telehealth services, a Licensee shall have procedures in place to address remote medical or clinical emergencies at the patient's location.

(5) The application and technology used to provide telehealth services shall meet all standards required by state and federal laws governing the privacy and security of a patient's protected health information.

(6) A Licensee providing telehealth services to a person who is domiciled in another state and physically present in that state at the time the telehealth services are being provided, may be required to be licensed in the state where the services are being rendered.

Stat. Auth.: ORS 688.160(6)(C)
Stats. Implemented: ORS 688.010-688.230
Hist.: PTLB 2-2015, f. 8-27-15, cert. ef. 9-1-15

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**Rule Caption:** Change to a two year renewal cycle with a 15% reduction in renewal fees.
**Adm. Order No.:** PTLB 3-2015
**Filed with Sec. of State:** 9-9-2015
**Certified to be Effective:** 1-1-16
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 848-005-0020, 848-010-0026, 848-010-0033, 848-010-0035, 848-035-0030, 848-045-0010
**Subject:** Change the current renewal cycle from a one year renewal cycle to every two year renewal cycle effective April 1, 2016. This will put the renewal cycle in sync with the two year continuing competency cycle. Reduce the renewal fee by 15%. Eliminate the provision and fee of a wall certificate. Add an administrative fee for the processing and tracking of the new early eligibility release forms. Cleanup some obsolete language in 848-010-0026. Add a requirement for a jurisprudence exam prior to reinstatement of a lapsed license. Add cultural competency course work to the list of approved continuing competency activities in Division 35 and correct errors previously published in Appendix A and B.
**Rules Coordinator:** James Heider—(971) 673-0203

**848-005-0020**
**Board Fees and Refunds**

(1) The following fees shall be paid to the Board:

(a) Physical Therapist or Physical Therapist Assistant Examination Application Fee of $150.00, plus the actual cost to the Board of conducting a nationwide background check.

(b) Physical Therapist or Physical Therapist Assistant Endorsement Application Fee of $150.00, plus the actual cost to the Board of conducting a nationwide background check.

(c) Physical Therapist License Renewal Fee of $170.00, plus the actual cost to the Board of conducting a workforce demographics survey as required by ORS 676.410(7).

(d) Physical Therapist Assistant License Renewal Fee of $110.00, plus the actual cost to the Board of conducting a workforce demographics survey as required by ORS 676.410(7).

(e) Lapsed License Renewal Fee of $50.00 for renewal applications postmarked or received by the Board after March 31st of an even numbered year.

(f) On-line renewal and application convenience fee not to exceed the actual processing costs of an on-line electronic transaction.

(g) Physical Therapist or Physical Therapist Assistant Temporary Permits Fee of $50.00.

(h) Duplicate License Fee of $25.00.

(i) Physical Therapist or Physical Therapist Assistant NPTE Early Eligibility Release Form processing fee of $25.00.

(j) Physical Therapist or Physical Therapist Assistant Verification of Oregon Licensure or Verification of Application Status Letters/Forms Fee of $25.00.

(k) Non-Sufficient Funds (NSF) Check Fee of $25.00.

(l) Miscellaneous Fees:

(A) Physical Therapist and/or Physical Therapist Assistant electronic mailing list fee of $100.00.

(B) Photocopying administrative fee of $25.00, plus ten cents ($0.10) per copy.

(2) Board refunds of overpayments in any amount of $25.00 or less will be held by the Board unless the payor requests a refund in writing.

Stat. Auth.: ORS 182.466(4)
Stats. Implemented: ORS 182.466(4), 688.070(1)(2), 688.080, 688.100 & 688.110
Hist.: PT 6-1996, f. & cert. ef. 9-5-96; PT 3-1997, f. & cert. ef. 6-9-97; PLTB 1-1998, f. & cert. ef. 2-9-98; PTLB 6-1999, f. 11-23-99, cert. ef. 1-1-00; PTLB 4-2000, f. & cert. ef. 12-21-00; Renumbered from 848-010-0110, PTLB 2-2004, f. & cert. ef. 12-29-04; PTLB 3-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2010, f. 2-16-10, cert. ef. 3-1-10; PTLB 2-2012(Temp), f. 11-30-12, cert. ef. 1-1-13 thru 3-31-13; Administrative correction, 4-22-13; PTLB 2-2013, f. 11-26-13, cert. ef. 1-1-14; PTLB 3-2015, f. 9-9-15, cert. ef. 1-1-16

**848-010-0026**
**Temporary Permits**

(1) The Board may issue a temporary permit to practice as a physical therapist or physical therapist assistant the period specified below to an applicant who meets the requirements of this rule.

(a) A person who has graduated from a CAPTE accredited physical therapist or physical therapist assistant program in a state or territory of the United States and who is applying for the first time to take the licensing examination for Oregon may be issued a temporary permit for a period of 90 calendar days. Such applicant shall:

(A) Submit a completed application for license by examination and pay the required fee;

(B) Submit a completed application for a temporary permit and pay the required fee; and

(C) Submit a Board Certificate of Professional Education providing primary source verification of completion of a CAPTE accredited physical therapist or physical therapist assistant program or an official transcript of completion.

(D) Must have registered and been released to sit for the NPTE.

(b) A person who holds a valid current license to practice in another state or territory of the United States may be issued a temporary permit for a period of 60 calendar days. Such applicant shall:

(A) Provide written primary source verification of current licensure in another state or territory;

(B) Submit a completed application for license by endorsement and pay the required fee;

(C) Submit a completed application for a temporary permit and pay the required fee;

(D) Submit a Board Certificate of Professional Education providing primary source verification of completion of a CAPTE accredited physical therapist or physical therapist assistant program or an official transcript of completion; and

(E) Have passed the physical therapist or physical therapist assistant examination as provided in OAR 848-010-0020(5).

(2) A person who holds a temporary permit must practice under supervision as provided in this rule.

(3) A person who holds a temporary permit issued under subsection (1)(a) of this rule must practice under on-site supervision, which means that at all times a supervising therapist is in the same building and immediately available for consultation. Entries made in the patient record by a temporary permit holder must be authenticated by the permit holder and by a supervising therapist.

(4) A person who holds a temporary permit issued under subsection (1)(b) of this rule must practice under general supervision, which means that at all times a supervising therapist must be readily available for consultation, either in person or by telecommunication.

(5) As used in this rule, "supervising therapist" means an Oregon licensed physical therapist if the permit holder is a physical therapist or a physical therapist assistant. "Supervising therapist" also means an Oregon licensed physical therapist assistant if the permit holder is a physical therapist assistant. A physical therapist assistant may not supervise a physical therapist permit holder.

(6) If a physical therapist assistant is supervising a physical therapist assistant permit holder, a physical therapist must be readily available for consultation, either in person or by telecommunication, as provided in OAR 848-015-0020.

(7) Within five (5) working days of beginning practice the permit holder must submit to the Board a completed "Temporary Permit Letter from Employer" form. The permit holder must notify the Board of any change in employment during the period of the temporary permit by submitting a new "Temporary Permit Letter from Employer" within five (5) working days.

(8) A temporary permit issued under this rule shall terminate automatically by operation of law if the permit holder fails the Board-approved national licensing examination. A permit holder must return the permit certificate to the Board immediately, by a method that provides delivery verification, upon notification that the permit has terminated.

(9) The Board may refuse to issue a temporary permit to an applicant or may revoke a permit after issuance on any of the grounds set out in OAR 848-010-0044 or 848-045-0020. A person whose permit is revoked must

return the certificate to the Board immediately by a method that provides delivery verification.

(10) A permit holder whose permit has terminated or has been revoked is not eligible to apply for another permit.

(11) A person who has taken and failed the Board-approved national licensing examination is not eligible to apply for a temporary permit.

(12) In its discretion the Board may grant one 60 calendar day extension to a person who holds a temporary permit.

(13) A person who holds a temporary permit issued under this rule is subject to all statutes and rules governing a licensee.

Stat. Auth.: ORS 688.110
Stats. Implemented: ORS 688.110
Hist.: PTLB 3-2000, f. & cert. ef. 12-21-00; PTLB 9-2004, f. & cert. ef. 12-29-04; PTLB 4-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 2-2008, f. 12-16-08, cert. ef. 1-2-09; PTLB 1-2010, f. 2-16-10, cert. ef. 3-1-10; PTLB 1-2012, f. 2-9-12, cert. ef. 3-1-12; PTLB 2-2013, f. 11-26-13, cert. ef. 1-1-14; PTLB 3-2015, f. 9-9-15, cert. ef. 1-1-16

**848-010-0033**
**Renewal Of License Required**

(1) All physical therapist and physical therapist assistant licenses expire on March 31 of each even numbered year, regardless of the initial issue date. Physical therapists and physical therapist assistants must renew their licenses to practice effective April 1 of each even numbered year. A license is considered lapsed if a completed renewal application is postmarked or received after March 31 of an even number year. A person whose license has lapsed must immediately stop practicing as a physical therapist or a physical therapist assistant and shall not practice until the license is renewed.

(2) The annual renewal period shall be January 1st through March 31st of an even number year. The Board will provide renewal notification to all current licensees during the month of January.

(3) If the completed license renewal application is postmarked or actually received by the Board after March 31, the licensee is subject to a lapsed license renewal fee as provided in OAR 848-005-0020(1)(e) in addition to the license renewal fee.

(4) A licensed physical therapist must complete the renewal application process and pay the renewal fee provided in OAR 848-005-0020(1)(c).

(5) A licensed physical therapist assistant must complete the renewal application process and pay the renewal fee provided in OAR 848-005-0020(1)(d).

(6) Each currently licensed physical therapist and physical therapist assistant must complete the continuing competence requirements as provided in Division 35 of these rules before they may renew.

Stat. Auth.: ORS 688.110
Stats. Implemented: ORS 688.110
Hist.: PTLB 9-2004, f. & cert. ef. 12-29-04; PTLB 4-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07; PTLB 2-2013, f. 11-26-13, cert. ef. 1-1-14; PTLB 3-2015, f. 9-9-15, cert. ef. 1-1-16

**848-010-0035**
**Renewal of Lapsed Licenses**

(1) Any license that is not renewed before April 1 of each even number year shall automatically lapse. No person whose license has lapsed shall practice until the license is renewed. Failure to receive a renewal notice shall not excuse any licensee from the requirements of renewal. The Board may renew any lapsed license upon payment of all past unpaid renewal fees, payment of a single lapsed license renewal fee as provided in OAR 848-005-0020(1)(e) and, if applicable, documentation of completion of the continuing competence requirements as provided in 848-035-0020(5). An applicant whose license has lapsed for non-completion of the continuing competence requirements may reinstate the lapsed license upon completion of the requirements for the immediately prior certification period. Continuing competence hours earned after March 31 of the even-numbered year to fulfill the requirements necessary to reinstate the lapsed license shall apply only to the prior certification period.

(2) Any individual reinstating a license that has been lapsed between two to five years must show evidence of completion of a minimum of 24 hours of continuing competency during the 24 months immediately prior to the reinstatement date and complete the current Board jurisprudence examination. However, a candidate for reinstatement who holds a current license in another state or jurisdiction which has a requirement for continuing competence or continuing education and who has completed that requirement, shall be exempt from the continuing competency requirements of this subsection.

(3) In the event that an applicant's Oregon physical therapy license has lapsed for five or more consecutive years, the applicant must demonstrate competence to practice physical therapy. If the applicant fails to demonstrate competence, the Board may require the applicant to serve an internship under a restricted license or satisfactorily complete a refresher course approved by the Board, or both, at the discretion of the Board. The Board may also require the applicant to pass an examination approved by the Physical Therapist Licensing Board as provided in OAR 848-010-0015.

(4) If the applicant holds a current physical therapist or physical therapist assistant license in another state or jurisdiction and the applicant's Oregon license has lapsed for five or more consecutive years, the applicant may apply for a license by endorsement as provided in OAR 848-010-0020.

Stat. Auth: ORS 688.160
Stats. Implemented: ORS 688.100
Hist.: PT 2, f. 8-22-74, ef. 9-25-74; PT 10, f. & ef. 10-21-77; PT 1-1979, f. & ef. 2-14-79; PT 1-1989, f. & cert. ef. 8-8-89; PT 5-1996, f. & cert. ef. 9-5-96; PTLB 9-2004, f. & cert. ef. 12-29-04; PTLB 4-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07; PTLB 1-2012, f. 2-9-12, cert. ef. 3-1-12; PTLB 2-2013, f. 11-26-13, cert. ef. 1-1-14; PTLB 3-2015, f. 9-9-15, cert. ef. 1-1-16

**848-035-0030**
**Continuing Education Requirements and Restrictions**

(1) The continuing competence requirements of this Division 35 may be satisfied through the following, which may include but are not limited to:

(a) Courses, seminars, activities, and workshops sponsored, certified, or approved by an established and recognized medical or dental health-related organization or professional association recognized by the Board;

(b) Courses or activities, directly related to the delivery or provision of physical therapy services and approved for continuing education or competency by other states which require continuing education or competency for physical therapists or physical therapist assistants;

(c) Courses or activities related to professional conduct, ethics and cultural competency;

(d) Courses provided by an accredited institution of higher education, which may include but are not limited to, courses leading to an advanced degree in physical therapy or other courses that advance the licensee's physical therapy competence. For purposes of this rule, one college credit is equal to 10 (ten) contact hours;

(e) Individual study courses, online courses and webinars, requiring an examination and recognized by an accredited institution or recognized health-related organization or professional association recognized by the Board;

(f) Courses in cardiopulmonary resuscitation (CPR) will be limited to one hour of continuing competence credit, regardless of the length of the course;

(g) Courses or lectures which a licensee presents if the course or lecture awards continuing education or competence units or hours to participants and the licensee requests continuing education or competence credit from the Board;

(A) The licensee may receive continuing competence units or hours equivalent to the actual credit hours awarded to participants for that portion of the program which the licensee presents;

(B) The maximum cumulative credit granted for presenting courses or lectures shall be no more than one half of the total continuing competence requirement during any certification period, or 12 hours and;

(C) A licensee may receive credit for presenting a particular course or lecture only one time during any certification period, regardless of how many times the licensee presents that course or lecture;

(h) Publishing an article in a peer review journal,

(A) The maximum credit granted for publishing an article shall be one half of the total continuing competence requirement during any certification period, or 12 hours and;

(B) A licensee may receive credit for publishing an article only one time during any certification period;

(i) Serving as a certified clinical instructor as follows:

(A) A licensee who has completed a Board-approved clinical instructor certification program may receive continuing competence credit equivalent to 1 credit hour for each 40 hours of direct clinical instruction to a physical therapist student or physical therapist assistant student enrolled in a physical therapy or physical therapy assistant program.

(B) The maximum cumulative credit granted for serving as a clinical instructor shall be no more than one-third of the total continuing competence requirement during any certification period, or 8 hours.

(C) The licensee must obtain a letter or certificate from the student's academic institution verifying that the student has completed the course of clinical instruction;

(j) Completion of a specialty certification through the American Board of Physical Therapy Specialists, which shall qualify for 24 hours of continuing competence during the period in which the specialist certification is awarded;

(k) Completion of the Federation of State Board's of Physical Therapy's Practice Review Tool (PRT); which shall qualify for 6 hours of continuing competence for completion or 12 hours of continuing competence for completion with a passing score; and

(l) Courses or activities approved by the Board by special request.

(2) Notwithstanding subsection 1 of this rule, activities which will not satisfy the continuing competence requirement include:

(a) Courses provided by an accredited institution of higher education taken as part of the curriculum requirements of a CAPTE accredited physical therapy program;

(b) In service programs or required workplace orientation, training or competencies;

(c) Professional association meetings for purposes of business or policy decisions making;

(d) Entertainment or recreational meetings; or

(e) Attending meetings, holding office, or representing a professional association as a lobbyist or delegate.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160(6)(g)
Hist.: PTLB 1-2006, f. & cert. ef. 4-14-06; PTLB 2-2008, f. 12-16-08, cert. ef. 1-2-09; PTLB 1-2012, f. 2-9-12, cert. ef. 3-1-12; PTLB 1-2014, f. 2-21-14, cert. ef. 4-1-14; PTLB 3-2015, f. 9-9-15, cert. ef. 1-1-16

**848-045-0010**
**Authority and Sanctions**

(1) If a licensee practices in a manner detrimental to the public health and safety or engages in illegal, unethical or unprofessional conduct as defined by the statutes and OAR 848-045-0020(2), the Board, after notice and opportunity for hearing as provided in ORS 688.145, may:

(a) Suspend or revoke a license or temporary permit.

(b) Impose a civil penalty not to exceed $5,000, with the penalty for non-compliance with continuing competence requirements to be as provided in the penalty schedule set out in Appendix A of these rules, and the penalty for practicing with a lapsed license to be as provided in the penalty schedule set out in Appendix B of these rules.

(c) Impose probation with conditions.

(d) Impose conditions, restrictions or limitations on practice.

(e) Reprimand the licensee.

(f) Impose any other appropriate sanction, including assessment of the reasonable costs of a proceeding under ORS 688.145 as a civil penalty. Costs include, but are not limited to, the costs of investigation, attorney fees, hearing officer costs and the costs of discovery.

(2) A disciplinary sanction imposed against a licensee shall be generally consistent with sanctions imposed by the Board against other licensees in substantially similar cases.

(3) If a licensee has a mental, emotional or physical condition which impairs the licensee's ability or competency to practice physical therapy in a manner consistent with the public health and safety, the Board, after notice and opportunity for hearing as provided in ORS 688.145, may suspend or revoke the license or temporary permit, impose probation with conditions, or impose conditions, restrictions or limitations on practice.

(4) As used in this rule, "licensee" includes a temporary permit holder.

Stat. Auth.: ORS 688.140, 688.160 & 688.210
Stats. Implemented: ORS 688.140, 688.145, 688.220 & 688.235
Hist.: PTLB 7-2004, f. & cert. ef. 12-29-04; PTLB 9-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2012, f. 2-9-12, cert. ef. 3-1-12; PTLB 2-2013, f. 11-26-13, cert. ef. 1-1-14; PTLB 3-2015, f. 9-9-15, cert. ef. 1-1-16

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## Public Utility Commission
## Chapter 860

**Rule Caption:** In the Matter of Revisions to OAR 860-001-0080 Protective Orders.
**Adm. Order No.:** PUC 6-2015
**Filed with Sec. of State:** 8-26-2015
**Certified to be Effective:** 8-26-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 860-001-0080
**Subject:** The amendments to the rule streamline the rule and provide improved clarity to the processes for designating information as protected and for resolving challenges to such designation.
**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-001-0080**
**Protective Orders**

(1) Upon request by a party and for good cause shown, an ALJ may issue protective orders to limit disclosure of information that falls within the scope of ORCP 36(C)(7). Decisions by the ALJ regarding protective orders may be appealed to the Commission under OAR 860-001-0720.

(2) General Protective Order. The Commission's general protective order adopts a process for parties to avoid discovery disputes that include protected information. The order allows the broadest possible discovery consistent with the need to protect such information; it does not determine whether a particular document is exempt from disclosure. The general protective order is not included in rule text. [Order not included. See ED. NOTE.]

(3) Modified Protective Order.

(a) A party may request that the ALJ issue a modified protective order that provides additional protection beyond that provided by the general protective order by filing a motion under OAR 860-001-0420. The motion must include:

(A) The parties and the exact nature of the information involved;

(B) The legal basis for the claim that the information is protected under ORCP 36(C)(7) or the Public Records Law;

(C) The exact nature of the relief requested;

(D) The specific reasons the requested relief is necessary; and

(E) A detailed description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient.

(b) The ALJ will provide expedited review of any motion for additional protection. Pending the ALJ's ruling on a motion for additional protection, the information at issue need not be released.

(c) To receive access to information that has been given additional protection beyond that of the general protective order, a party may be required to certify that it intends to fully participate in the proceedings. Fully participating means being actively involved in the docket, as appropriate, by filing testimony; participating in settlement negotiations, conferences, and hearings. If a certifying party fails to fully participate in the proceedings, the party may decertify itself or, upon the request of a party or the ALJ's own motion, be decertified as eligible to receive information under a modified protective order.

(4) A party alleging that the terms of a protective order have been violated may file a complaint under ORS 756.500, or the Commission may, on the Commission's own initiative, file such complaint. Any person that fails to comply with the terms of a protective order may be subject to sanctions. Depending upon the severity of the violation, the Commission may impose any sanction it deems appropriate, up to and including:

(a) Issuing a public reprimand;

(b) Expelling the person or associated party from the proceeding in which the protective order was violated;

(c) Prohibiting the person or associated party from appearing in future proceedings;

(d) Imposing penalties under ORS 756.990(2)(c); or

(e) Reporting any attorney that violated the protective order to the bar association in all states where the attorney is admitted to practice law.

[ED. NOTE: Orders referenced are available from the agency.]
Stat. Auth.: ORS 756.040 & 756.060
Stats. Implemented: ORCP(36), ORS 756.040, 756.055 & 756.990
Hist.: PUC 5-2010, f. & cert. ef. 10-22-10; PUC 4-2012, f. & cert. ef. 4-17-12; PUC 6-2015, f. & cert. ef. 8-26-15

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**Rule Caption:** In the Matter of Rulemaking to Implement SB 329 Relating to Annual Fee Percentage Rate.
**Adm. Order No.:** PUC 7-2015
**Filed with Sec. of State:** 9-8-2015
**Certified to be Effective:** 9-8-15
**Notice Publication Date:** 8-1-2015
**Rules Amended:** 860-021-0034, 860-021-0036, 860-032-0095, 860-034-0095, 860-036-0095, 860-037-0095
**Subject:** These rule amendments implement 2015 Senate Bill 329, which raised the maximum annual fee percentage rate from 0.25 percent to 0.30 percent of a utility's gross operating revenues.
**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-021-0034**

**Annual Fees Payable to the Commission by Gas Utility or Steam Heat Utility**

(1) On statement forms prescribed by the Commission, each gas utility and steam heat utility must provide the requested information for the subject year.

(2) Each gas utility and steam heat utility must pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission orders entered on or after March 1 of each year.

(3) Each gas utility and steam heat utility must pay to the Commission:

(a) A minimum annual fee of $10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based.

(b) A late statement fee in accordance with OAR 860-001-0050, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(5) For any year in which a gas utility or steam heat utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 15-2003, f. & cert. ef. 7-24-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 10-2007, f. & cert. ef. 9-13-07; PUC 7-2015, f. & cert. ef. 9-8-15

**860-021-0036**

**Annual Fees Payable to the Commission by a Large Telecommunications Utility**

(1) On statement forms prescribed by the Commission, each large telecommunications utility must provide the requested information for the subject year.

(2) Each large telecommunications utility must pay to the Commission:

(a) A minimum annual fee of $100. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed three tenths of one percent (0.3 percent) of the gross retail intrastate revenue during the calendar year on which the annual fee is based.

(b) A late statement fee in accordance with OAR 860-001-0050, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) A service fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(4) Each large telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility throughout Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(5) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and:

(a) If the utility does not separately charge the customer an additional amount for the apportioned annual fee, then the utility may comply with section (4) of this rule by merely describing the apportioned amount of the charge on the retail customer's bill.

(b) If the utility separately charges the customer an additional amount for the apportioned annual fee, then the utility must comply with ORS 756.310(6)(c).

(6) For any year in which a large telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

(7) Each large telecommunications utility must:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(8) If the Commission receives a public record request for the confidential information required by this rule, the Commission may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.

Stat. Auth.: ORS 183, 192, 756 & 759

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 13-1999, f. & cert. ef. 12-7-99; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 8-2003, f. & cert. ef. 4-28-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 7-2015, f. & cert. ef. 9-8-15

**860-032-0095**

**Annual Fees Payable to the Commission by a Competitive Provider**

(1) On statement forms prescribed by the Commission, each competitive provider must provide the requested information for the subject year.

(2) Each competitive provider must pay to the Commission:

(a) A minimum annual fee of $100. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed three tenths of one percent (0.3 percent) of the gross retail intrastate revenue during the calendar year on which the annual fee is based.

(b) A late statement fee in accordance with OAR 860-011-0110, if the Commission has not received the competitive provider's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) A service fee in accordance with OAR 860-011-0110 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the competitive provider.

(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(4) Each competitive provider must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the competitive provider through Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(5) Each competitive provider must:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request. A competitive provider must keep all records supporting each statement form for three (3) years, or until a Commission review or audit is complete, whichever is later.

(6) For any year in which a competitive provider's statement form was due, the Commission may audit the competitive provider as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three years after the statement form's due date. However, if the competitive provider failed to obtain a certificate of authority, an audit may occur at any time.

(b) If the Commission determines that the competitive provider has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the competitive provider has overpaid its annual fee, the Commission may, at is discretion, recompense the competitive provider with a refund or a credit against annual fees subsequently due.

(7) If the Commission receives a public record request for the confidential information required by this rule, the Commission may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.

(8) A cooperative that is a competitive provider must pay an annual fee only on the gross retail intrastate revenue from telecommunications services that are provided under the cooperative's ORS 759.020 certificate of authority. A cooperative should not pay an annual fee on revenue from telecommunications services that are provided under the cooperative's 759.025 certificate of authority.

Stat. Auth.: ORS 183, 192, 756 & 759
Stats. Implemented: ORS 756.310, 756.320 & 756.350
Hist.: PUC 13-1999, f. & cert. ef. 12-7-99; PUC 8-2003, f. & cert. ef. 4-28-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 7-2015, f. & cert. ef. 9-8-15

**860-034-0095**
**Annual Fees Payable to the Commission by a Small Telecommunications Utility**

(1) On statement forms prescribed by the Commission, each small telecommunications utility must provide the requested information for the subject year.

(2) Each small telecommunications utility must pay to the Commission:

(a) A minimum annual fee of $100. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed three tenths of one percent (0.3 percent) of the gross retail intrastate revenue during the calendar year on which the annual fee is based.

(b) A late statement fee in accordance with OAR 860-001-0050, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) A service fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(4) Each small telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility throughout Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(5) Each small telecommunications utility must:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(6) For any year in which a small telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at is discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

(7) If the Commission receives a public record request for the confidential information required by this rule, the Commission may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.

Stat. Auth.: ORS 183, 192, 756 & 759
Stats. Implemented: ORS 756.310, 756.320 & 756.350
Hist.: PUC 13-1999, f. & cert. ef. 12-7-99; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 8-2003, f. & cert. ef. 4-28-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 7-2015, f. & cert. ef. 9-8-15

**860-036-0095**
**Annual Fees Payable to the Commission by a Water Utility**

(1) On statement forms prescribed by the Commission, each water utility must provide the requested information for the subject year.

(2) Each water utility must pay to the Commission:

(a) A minimum annual fee of $10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed three tenths of one percent (0.3 percent) of the Oregon revenue during the prior calendar year.

(b) A late statement fee in accordance with OAR 860-001-0050, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(4) For any year in which a water utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS 183 & 756
Stats. Implemented: ORS 756.310, 756.320 & 756.350
Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 15-2003, f. & cert. ef. 7-24-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 7-2015, f. & cert. ef. 9-8-15

**860-037-0095**
**Annual Fees Payable to the Commission by a Wastewater Utility**

(1) On statement forms prescribed by the Commission, each wastewater utility must provide the requested information for the subject year.

(2) Each wastewater utility must pay to the Commission:

(a) A minimum annual fee of $10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed three tenths of one percent (0.3 percent) of the Oregon revenue during the prior calendar year.

(b) A late statement fee in accordance with OAR 860-001-0050, if the Commission has not received the utility's statement form, completed in

compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(4) For any year in which a wastewater utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS 183 & 756
Stats. Implemented: ORS 756.310, 756.320 & 756.350
Hist.: PUC 14-2000, f. & cert. ef. 8-23-00; PUC 15-2003, f. & cert. ef. 7-24-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 7-2015, f. & cert. ef. 9-8-15

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## Secretary of State, Audits Division
## Chapter 162

**Rule Caption:** Updating parties requiring notification
**Adm. Order No.:** AUDIT 1-2015
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 162-001-0000
**Subject:** The Oregon Cemetery Owners Association and Oregon Funeral Directors Association programs are no longer with the Secretary of State. They are with the Department of Consumer and Business Services. The Oregon Board of Accountancy is added to the list to notify.
**Rules Coordinator:** Julie A. Sparks—(503) 986-2262

**162-001-0000**
**Notice of Proposed Rule**

Prior to the adoption, amendment, or repeal of any rule, the Division of Audits shall give notice of the proposed adoption, amendment or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days prior to the effective date.

(2) By mailing a copy of the Notice to persons on the Division of Audits mailing list established pursuant to ORS 183.351(4).

(3) By mailing a copy of the Notice to the following persons or organizations listed according to Division programs, where Division determines that such persons or organizations would have an interest in the subject matter proposed:

(a) Oregon Society of Certified Public Accountants;
(b) League of Oregon Cities;
(c) Association of Oregon Counties;
(d) Oregon School Boards Association;
(e) Special Districts Association of Oregon;
(f) Oregon Board of Accountancy

Stat. Auth.: ORS 183
Stats. Implemented: ORS 297.210 & 297.465
Hist.: DOA 4-1985, f. & ef. 11-18-85; AUDIT 1-2015, f. & cert. ef. 8-19-15

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**Rule Caption:** Update Minimum Standards for Audits of Oregon Municipal Corporations to reflect 2015 enacted legislation
**Adm. Order No.:** AUDIT 2-2015
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 162-010-0000, 162-010-0020, 162-010-0030, 162-010-0050, 162-010-0120, 162-010-0130, 162-010-0230, 162-010-0260, 162-010-0295, 162-010-0320, 162-010-0330
**Rules Repealed:** 162-010-0150
**Subject:** 1. Amend rules to reflect new provisions and amending Municipal Audit Law ORS Chapter 297.425, 297.465, and 297.466 enacted by the 2015 Legislative Assembly in House Bill 2174.

2. Amend rules for minor edits and clarifying language to bring rules up to date.

3. Repeal OAR 162-010-0150 Property Tax Schedule considered outdated and no longer necessary
**Rules Coordinator:** Julie A. Sparks—(503) 986-2262

**162-010-0000**
**Preface**

(1) Pursuant to the provisions of ORS 297.465, there is presented herewith the Minimum Standards for Audits of Oregon Municipal Corporations.

(2) These Standards have been approved by the Oregon Board of Accountancy (the Board), and have been adopted by the Secretary of State as Administrative Rules under the provisions of ORS Chapter 183.

(3) All audits of municipal corporations shall be made in accordance with these Standards, and all audit reports shall be in the form prescribed herein.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: DOA 3-1986, f. & ef. 5-29-86; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0020**
**General Requirements**

(1) All municipal corporations, as defined in ORS 297.405, are required to have their accounts and fiscal affairs audited annually in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants (AICPA), unless they qualify under 297.435 to be reviewed in accordance with Statements on Standards for Accounting and Review Services (SSARS), or file financial reports in lieu of having an audit. The accounts to be audited and examined may include financial statements, or they may consist solely of books, records, and other financial data

(2) The independent auditor who contracts to conduct an audit of a municipal corporation must personally conduct the audit to an extent satisfactory to the Secretary of State, prepare an Independent Auditor's Report and express an opinion on the accounts in accordance with these rules. The expression of opinion must be signed by the independent auditor. The Independent Auditor's Report and expression of opinion are to be issued to the municipal corporation within six months after the close of the calendar or fiscal year unless an extension of time has been granted by the Secretary of State.

(3) Management (of the municipal corporation) has the responsibility for adopting sound accounting policies, for maintaining an adequate and effective system of accounts, for the safeguarding of assets, and for devising a system of internal control that will, among other things, help assure the production of proper financial statements. The transactions which should be reflected in the accounts and in the financial statements are matters within the direct knowledge and control of management. The independent auditor's knowledge of such transactions is limited to that acquired through the audit. Accordingly, the fairness of the representations made through financial statements is an implicit and integral part of management's responsibility. The independent auditor may make suggestions as to the form or content of financial statements or he/she may draft them in whole or in part, based on management's accounts and records. However, responsibility for the statements examined is confined to the expression of opinion on them. The financial statements remain the representations of management.

(4) Since the functions and forms of government, as well as the accounting, internal control, and management information systems, will vary greatly among municipal corporations, the independent auditor must be familiar with legal provisions applicable to municipal corporations and the accounting principles promulgated by GASB and other accounting principles considered to be generally acceptable for governmental organizations.The independent auditor shall review the information systems of accounting and internal control, develop audit programs to adequately test

those systems, and form an opinion with respect to the financial statements of the municipal corporation.

(5) Officials of the municipal corporation should make an accounting of all resources for which they are responsible. Preparation of the financial statements and notes thereto and the supplementary schedules considered necessary for full disclosure of financial position and results of operations as set forth in OAR 162-010-0050 through 162-010-0140 will be considered an appropriate accounting.

(6) The independent auditor is expected to determine if the accounts and records are maintained in a manner that will permit the preparation of financial statements that will fairly present the financial position and results of operations of the municipal corporation in accordance with legal provisions and in accordance with generally accepted accounting principles. The accounting principles contemplated are those contained in the pronouncements of authoritative bodies including, but not necessarily limited to, the Governmental Accounting Standards Board (GASB), the AICPA and the Financial Accounting Standards Board (FASB). If the municipal corporation fails to prepare and present the financial statements specified in OAR 162-010-0050 through 162-010-0140, the independent auditor must make a reasonable attempt to draft them for the municipal corporation from the accounts and records made available for audit. If the financial statements cannot be drafted with reasonable effort, appropriate comments must be included in the audit report, together with recommendations for improvements necessary to permit their preparation in the future. Wherever there is a conflict between legal provisions and professional standards setting bodies, legal provisions are to take precedence. The independent auditor shall make appropriate disclosure of such conflicts and shall be aware that a qualification of the opinion may be necessary.

(7) In addition to auditing the accounts and financial statements of a municipal corporation, the independent auditor is required to review the municipal corporation's fiscal affairs. The review shall include, but not necessarily be limited to, determining if financial operations have been carried out in accordance with appropriate legal provisions including federal and state laws, charter provisions, court orders, ordinances, resolutions, and rules and regulations issued by other governmental agencies. It is the independent auditor's responsibility to disclose in the audit report material instances of noncompliance with such legal provisions.

(8) The scope of the audit of a municipal corporation shall include programs wholly or partially funded by other federal, state, or local governmental agencies. In determining the audit procedures to be applied to such programs, the independent auditor shall consider any specific audit procedures which may have been developed for those programs by appropriate governmental agencies. The independent auditor shall also determine if financial reporting requirements applicable to such programs have been complied with.

(9) The audit report of a municipal corporation shall contain financial statements with appropriate notes, the Independent Auditor's Report containing his or her expression of opinion on the financial statements, or an assertion that an opinion cannot be expressed, and the auditor's comments relating to the review of fiscal affairs and compliance with legal requirements.

(a) The independent auditor must prepare the independent auditor's opinion in accordance with the Statements on Auditing Standards issued by the AICPA.

(b) The independent auditor's report should include either an opinion on whether the accompanying financial information is fairly presented in all material respect in relation to the basic financial statements taken as a whole or a disclaimer of opinion depending on whether the information has been subjected to the auditing procedures applied in the audit of the basic financial statements.

(c) In a GAAP presentation the independent auditor shall express an "in relation to" opinion on budgetary comparison schedules presented as required supplementary information.

(d) The independent auditor shall express an "in relation to" opinion" on the combining and individual fund statements and schedules presented as supplementary information required by OAR 162-010-0050 through 162-010-140.

(e) The auditor's comments relating to the review of fiscal affairs, including compliance with legal requirements shall be in accordance with the provisions of OAR 162-010-200 through 162-010-0320.

(10) Audit reports are required to contain, immediately inside the front cover, the names and mailing addresses of officers of the municipal corporation and members of its governing body. In addition, audit reports of special districts, as defined by law, shall contain the name of the district's registered agent and its registered address. If a special district has not designated a registered agent or registered address, then the audit report shall so indicate.

(11) It is the responsibility of the municipal corporation to file a copy of its audit report with the Secretary of State. The reports are subject to review for compliance with these rules, and the Secretary of State may call for submission by the independent auditor of the work papers and audit programs covering an engagement. The work papers and audit programs must contain satisfactory documented evidence of compliance with these rules.

(12) Within 30 days after delivering the audit report, as required by law, the independent auditor shall submit a summary of the revenues and expenditures of the municipal corporation for the period covered by the audit. The summary shall be made in the manner and on forms prescribed by the Secretary of State. One copy of the summary shall be delivered to the municipal corporation. Instructions are as follows:

(a) General: The summary shall include the revenues and expenditures or receipts and disbursements presented in the government-wide statement of activities.

(b) The amounts shall also include fiduciary fund additions and deductions.

(c) Revenues and expenditures of component units and turnovers to other governments should be identified in the summary as reductions in arriving at the net totals. Those amounts are included in the separately issued financial statements of the other governments.

Stat. Auth.: ORS 297
Stats Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0015; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0030**
**Contracts**

Municipal Audit Law requires audits be performed pursuant to a contract between the independent accountant and the governing body, or managing or executive officer, of the municipal corporation. Laws governing contracts are prescribed in the Oregon Public Contracting Code, ORS Chapters 279A, 279B, and 279C. If the municipal corporation does not prepare the financial statements set forth in OAR 162-010-0050 through 162-010-0140, the contract must provide for the independent auditor to make a reasonable attempt to draft them for and on behalf of the municipal corporation.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0020; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2011, f. & cert. ef. 1-27-11; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0050**
**Financial Statements**

(1) The GASB is recognized as the standard-setting authority of GAAP for state and local governments. As such, fair presentation of financial position and results of operations in conformity with GAAP for Oregon municipal corporations are those financial statements, notes thereto, and supporting information consistent with GASB Statements and Interpretations and the hierarchy of GAAP applicable to state and local governments established by the AICPA and adopted by GASB.

(2) Since the focus of accounting in a governmental unit is the individual fund, the financial statements to be presented in the municipal corporation's annual report must also include nonmajor fund combining statements and individual fund statements/schedules.

(3) Compliance with municipal audit law includes financial statements prepared on the cash basis of accounting.

(4) If information necessary to prepare the financial statements, or any of them individually, is not readily available or is not maintained by the municipal corporation appropriate disclosure must be made in the auditor's report.

Stat. Auth.: ORS 297
Stats Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0100; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0120**
**Supplementary Financial Information (SI)**

In addition to financial statements, notes and required supplementary information thereto, certain other financial information is considered necessary for full disclosure of the fiscal affairs of Oregon municipal corporations. Whenever appropriate, audit reports must contain the other financial information set forth in OAR 162-010-0130 through 162-010-0140 or reasonable combinations thereof. If information necessary to prepare these schedules, or any of them individually, is not readily available or is not maintained by the municipal corporation appropriate comments to that effect shall be included in the audit report. If appropriate, these schedules may be included in the notes to the financial statements..

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0135; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0130**
**Schedule of Revenues, Expenditures/Expenses, and Changes in Fund Balances/Net Assets/Net Position, Budget and Actual (Each Fund)**

An individual schedule of receipts/revenues, expenditures/expenses, and changes in fund balances/net position, budget and actual, must be prepared for each fund of any municipal corporation for which budgets are legally required. They must compare estimated with actual revenues or receipts, transfers in, expenditures or disbursements, transfers out and ending balances on the basis of the legally adopted budget. If the municipal corporation has made appropriations in a manner which differs materially from the presentation of estimated expenditures in the budget document, a separate schedule must be included which compares actual expenditures/expenses with the legally adopted appropriations.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0125; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0230**
**Accounting Records and Internal Control**

The independent auditor shall state in a separately issued by-product report, that in planning the audit, he or she followed generally accepted auditing standards in obtaining an understanding of the entity and its internal control over financial reporting. If significant deficiencies, material weaknesses or other recommendations for improvements have been communicated in a separate letter to management or in a report issued in accordance with *Government Auditing Standards*, the independent auditor shall file a copy of the letter with the Secretary of State within 30 days of delivering the report to the municipal corporation.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0215; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0260**
**Budget**

Compliance with legal requirements relating to the preparation, adoption, and execution of the annual or biennial budget for the year being audited, and the preparation and adoption of the budget for the next succeeding year shall be disclosed. The auditor shall also disclose the financial or organizational level at which the governing body makes the annual appropriations. The minimum levels of legal appropriation are established in ORS 294.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0230; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2014, f. & cert. ef. 2-13-14; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0295**
**Highway Funds**

Compliance with legal requirements, (as contained in Article IX, section 3a of the Oregon Constitution), pertaining to the use of revenue from taxes on motor vehicle use and fuel shall be disclosed. The auditor shall also disclose compliance with statutory requirements pertaining to the use of road funds (as contained in ORS 294, 368, and 373).

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0320**
**Other Comments and Disclosures**

The independent auditor shall include such other comments or disclosures with respect to the review of fiscal affairs and compliance with legal requirements as may be appropriate in the circumstances.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0295; AUDIT 2-2015, f. & cert. ef. 8-19-15

**162-010-0330**
**Extensions of Time to Deliver Audit Reports**

If the required report is not filed with the Secretary of State within six months following the end of the fiscal year, the municipal corporation shall file a written request for extension of time. The request shall state the reasons for the delay and the expected filing date of the report. The Secretary of State, for good cause shown, may grant the request for a reasonable period of time.

(1) Requests for extensions of time to deliver audit reports must be submitted on forms provided by the Secretary of State. The request must contain the following information:

(a) The name and registered or mailing address of the municipal corporation;

(b) The name, address, and signature of the accountant or firm, if known, conducting the audit;

(c) The accounting period under audit;

(d) A statement setting forth the reasons for the delay in delivering the audit report;

(e) The signed approval or disapproval of the request by the chair of the governing body, or managing or executive officer, of the municipal corporation. Reasons for disapproval must be included;

(f) Requests applicable to school districts and community colleges must also contain the signed approval or disapproval of the local district superintendent or the superintendent's designee.

(2) A request for extension of time shall be submitted to the Secretary of State. The Secretary of State shall notify the independent auditor and the municipal corporation of its approval to grant an extension of time or reasons for its disapproval.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: SD 115, f. & ef. 10-1-77; DOA 3-1986, f. & ef. 5-29-86; Renumbered from 165-030-0670; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 2-2015, f. & cert. ef. 8-19-15

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**Rule Caption:** Update rules for provisions by 2015 legislative action in HB2174 and professional accounting standards
**Adm. Order No.:** AUDIT 3-2015
**Filed with Sec. of State:** 8-19-2015
**Certified to be Effective:** 8-19-15
**Notice Publication Date:** 7-1-2015
**Rules Amended:** 162-040-0001, 162-040-0002, 162-040-0005, 162-040-0010, 162-040-0020, 162-040-0054, 162-040-0055, 162-040-0060, 162-040-0085, 162-040-0095, 162-040-0096, 162-040-0155, 162-040-0160
**Rules Repealed:** 162-040-0050, 162-040-0065, 162-040-0070, 162-040-0075
**Subject:** 1. Amend rules to reflect new provisions and amending Municipal Audit Law ORS Chapter 297.425, 297.465, and 297.466 enacted by the 2015 Legislative Assembly in House Bill 2174.

2. Amend rules for outdated and clarifying language to bring rules up to date.

3. Amend rules for minor edits.

4. Repeal OAR 162-040-0050 Notes to the Financial Statements considered outdated and no longer necessary.

5. Repeal OAR 162-040-0065 Property Tax Schedule considered outdated and no longer necessary.

6. Repeal OAR 162-040-0070 Schedule of Bond or Long Term Debt that duplicates requirements in professional standards.

7. Repeal OAR 162-040-0075 Schedule of Future Requirements for Retirement of Bonded or Long Term Debt that duplicates requirements in professional standards.

**Rules Coordinator:** Julie A. Sparks—(503) 986-2262

**162-040-0001**
**Preface**

(1) Pursuant to the provisions of ORS 297.465, there is presented herewith the Minimum Standards for Review of Oregon Municipal Corporations.

(2) These Standards have been approved by the Oregon Board of Accountancy (the Board), and have been adopted by the Secretary of State as Administrative Rules under the provisions of ORS Chapter 183.

(3) All reviews of municipal corporations shall be made in accordance with these Standards, and all review reports shall be in the form prescribed herein.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: AUDIT 2-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0002**
**Definitions**

The following definitions describe terms within the context of their application to Municipal Audit Law.

Review: A review is a service, the objective of which is to obtain limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with the applicable financial reporting framework. In a review engagement, the accountant should accumulate evidence to obtain a limited level of assurance. Financial statements prepared on the cash or modified cash basis of accounting are financial reporting frameworks (special purpose frameworks) other than GAAP and are permitted under municipal audit law.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0000; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; Renumbered from 162-040-0000 by AUDIT 2-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0005**
**General Requirements**

(1) All municipal corporations, as defined in ORS 297.405, are required to have their accounts and fiscal affairs audited annually, unless they are exempt from audit under ORS 297.435. The following administrative rules apply to review reports prepared under 297.435(3). Review reports must be prepared in accordance with Statements on Standards for Accounting and Review Services (SSARS), which contain professional requirements, together with related guidance, in the form of explanatory material. Accountants performing a compilation or review have a responsibility to consider the entire text of SSARS in carrying out their work on an engagement and in understanding and applying the professional requirements of the relevant Standards.

(2) The objective of a review differs significantly from the objective of an audit of financial statements in accordance with generally accepted auditing standards. The objective of an audit is to provide a reasonable basis for expressing opinions on the financial statements that collectively comprise the municipality's basic financial statements. A review does not contemplate obtaining an understanding of the entity's internal control; assessing fraud risk; testing accounting records by obtaining sufficient appropriate evidence through inspection, observation, confirmation, or the examination of source documents; or other procedures ordinarily performed during an audit. A review is designed to obtain limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in conformity with GAAP or another financial reporting framework permitted by law.

(3) The accountant who performs a review of the financial statements of a municipal corporation must:

(a) Be licensed by the Oregon Board of Accountancy to conduct municipal audits;

(b) Personally perform the review in accordance with these rules to an extent satisfactory to the Secretary of State; and

(c) Prepare a report expressing limited assurance on the financial statements in accordance with these rules.

(4) Since the functions and forms of government, as well as the accounting, internal control, and management information systems, will vary greatly among municipal corporations, the accountant must be or become familiar with legal provisions applicable to a particular government. The accountant must also be familiar with the accounting principles considered to be generally acceptable for governments.

(5) Officials of the municipal corporation must account for all resources for which they are responsible. An appropriate accounting by officials of the municipal corporation will include financial statements, notes to the financial statements, and the supplementary information required by these rules.

(6) Based upon the review, the accountant should ascertain whether the municipal corporation's accounts and records are maintained in a manner that will permit the preparation of financial statements that fairly present its financial position and results of operations in accordance with legal provisions, and in accordance with generally accepted accounting principles or other financial reporting framework permitted by law. The accounting principles contemplated are those contained in pronouncements of authoritative bodies including, but not necessarily limited to, the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and the Governmental Accounting Standards Board. If the municipal corporation does not prepare and present the financial statements specified in these rules, the accountant should make a reasonable attempt to draft them for the municipal corporation using its accounts and records. Whenever legal provisions conflict with generally accepted accounting principles or principles applicable to another comprehensive basis of accounting, the accountant shall disclose these conflicts and modify the review report if necessary.

(7) The accountant should establish an understanding of the industry in which the municipality operates, and whether operations have been carried out in accordance with appropriate legal provisions including federal and state laws, charter provisions, court orders, ordinances, resolutions, and rules and regulations issued by other governmental agencies. If significant deficiencies, material weaknesses, or other recommendations for improvements have been communicated in a separate letter to management or the governing body, the independent accountant shall file a copy of the letter with the Secretary of State within 30 days of delivering the report to the municipal corporation.

(8) The report shall include financial statements with appropriate notes, and the accountant's review report containing limited assurance on the financial statements. If the accountant becomes aware of a departure from GAAP or another financial reporting framework permitted by law that is material to the financial statements, the accountant should consider whether modification of the standard report is adequate to disclose the departure. The accountant's review report shall include the reporting elements prescribed by the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

(9) The municipal corporation must file a copy of its report with the Secretary of State. The report and supporting documentation are subject to review by the Secretary of State for compliance with these rules. The Secretary of State may require the accountant to submit documentation covering the review engagement for purposes of this requirement.

(10) The accountant shall submit a summary of the revenues and expenditures of the municipal corporation within 30 days after delivering the review report. The summary shall encompass the period covered by the review and shall be prepared in a manner and on forms prescribed by the Secretary of State. One copy of the summary shall be delivered to the municipal corporation.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0005; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0010**
**Contracts**

Laws governing contracts are prescribed in the Oregon Public Contracting Code, ORS Chapters 279A, 279B, and 279C. Reviews shall be performed in accordance with a contract executed by the municipal corporation. The contract should clearly establish the nature of the services to be performed and shall clearly set forth the scope of work to be conducted by the accountant. The contract should include a provision for the expression of limited assurance on the financial statements of the municipal corporation. It should also provide for the accountant to make a reasonable attempt to draft the financial statements for the municipal corporation if the municipal corporation has not prepared them.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0010; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0020**
**Financial Statements**

The GASB is recognized as the standard-setting body of GAAP for state and local governments. As such, fair presentation of financial position

and results of operations in conformity with GAAP for Oregon municipal corporations are those financial statements and notes thereto consistent with GASB Statements and Interpretations and the hierarchy of GAAP applicable to state and local governments. (2) The focus of accounting in an Oregon governmental unit is the individual fund. Therefore, the financial statements to be reviewed in accordance with these administrative rules, and upon which the accountant is to express limited assurance, should include the nonmajor combining and individual fund financial statements and schedules, whether presented as basic, required supplementary information (RSI) or supplementary information (SI).

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0020; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 2-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0054**
**Required Supplementary Financial Information (RSI)**

In addition to financial statements, the accountant should be aware that the Governmental Accounting Standards Board may determine that certain statements, schedules, statistical data, or other information are necessary to supplement, although not required to be a part of, the basic financial statements.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0055**
**Supplementary Information (SI)**

In addition to the basic financial statements, notes, and required supplementary information thereto, supplementary information is considered necessary for full disclosure and compliance with various laws, rules, and regulations relating to the operations and finances of the municipal corporation.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0055; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0060**
**Schedule of Revenues, Expenditures, and Changes in Fund Balances/Retained Assets, Budget and Actual (Each Fund)**

The municipal corporation must prepare an individual schedule of revenues, expenditures/expenses, and changes in fund balances/net position, budget and actual, for each fund for which budgets are legally required. It must compare estimated with actual revenues or receipts, transfers in, expenditures or disbursements, transfers out and ending balances on the basis of the legally adopted budget. If the municipal corporation has made appropriations in a manner that differ materially from the presentation of estimated expenditures in the budget document, a separate schedule must be included that compares actual expenditures/expenses with the legally adopted appropriations.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0060; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 2-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0085**
**Other Financial or Statistical Information (OI)**

The report may include such other financial or statistical information as desired by the municipal corporation, including financial statements or schedules relating specifically to programs funded wholly or partially by other governmental agencies.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0085; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0095**
**Officers and Registered Agent of the Municipal Corporation**

Immediately inside the front cover, each report shall contain the names and mailing addresses of officers of the municipal corporation and members of its governing body. In addition, reports of special districts, as defined by law (ORS Chapter 198), shall contain the name of the district's registered agent and its registered address. If a special district has not designated a registered agent or registered address, the report shall so indicate.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0095; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0096**
**Management Representation of Fiscal Affairs**

(1) Each report shall include inside the back cover a signed report of management's representation of the municipal corporation's compliance with its fiscal affairs. At a minimum, the report should include the representations in the following example:

(2) Management Representation of Fiscal Affairs The [name of entity] is subject to, and responsible for, compliance with various laws, rules, and regulations relating to its operation and finances. Among such laws, rules, and regulations are the requirements prescribed in Municipal Audit Law (ORS Chapter 297) and the Minimum Standards for Review of Oregon Municipal Corporations (OAR 162, division 40) including, but not limited to:

(a) Deposit of public funds with financial institutions (ORS Chapter 295).

(b) Indebtedness limitations, restrictions, and repayment.

(c) Budgets legally required (ORS Chapter 294).

(d) Insurance and fidelity bonds in force or required by law.

(e) Programs funded from outside sources.

(f) Highway revenues used for public highways and roads (ORS Chapters 294, 368 & 373).

(g) Authorized investment of surplus funds (ORS Chapter 294).

(h) Public contracts, purchasing, and improvements (ORS Chapters 279A, 279B, and 279C).

The management of [name of entity] is aware of the requirements of Oregon laws and administrative rules concerning each of the above requirements and has complied, in all material respects, with such requirements. Further, we are not aware of any violations or possible violations of laws, rules, or regulations, whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency.

_____
Signature

_____ _____ _____
Printed Name Title Date

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0155**
**Suggested Review Procedures**

The AICPA Statement on Standards for Accounting and Review Services provide guidance for the accountant's inquiry and analytical procedures ordinarily performed in a review engagement. Those standards include an appendix of illustrative letters and reports inquiries.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91; Renumbered from 165-040-0155; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2012, f. 2-9-12, cert. ef. 4-1-12; AUDIT 3-2015, f. & cert. ef. 8-19-15

**162-040-0160**
**Extensions of Time to Deliver Review Reports**

If the required report is not filed with the Secretary of State within six months following the end of the fiscal year, the municipal corporation shall file a written request for extension of time. The request shall state the reasons for the delay and the expected filing date of the report. The Secretary of State, for good cause shown, may grant the request for a reasonable period of time.

(1) The municipal corporation must submit a request for extension of time to file a review report on forms provided by the Secretary of State. The request must contain the following information:

(a) The name and registered or mailing address of the municipal corporation;

(b) The name, address, and signature of the accountant or firm, if known, conducting the review;

(c) The accounting period under review;

(d) A statement setting forth the reasons for the delay in delivering the review report;

(e) The signed approval or disapproval of the request by the chair of the governing body, or managing or executive officer, of the municipal corporation. Reasons for disapproval must be included.

(2) A request for extension of time shall be submitted to the Secretary of State. The Secretary of State shall notify the independent accountant and the municipal corporation of its approval to grant an extension of time or reasons for its disapproval.

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465
Hist.: DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 2-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 3-2015, f. & cert. ef. 8-19-15

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## Teacher Standards and Practices Commission
## Chapter 584

**Rule Caption:** Amends and suspends rules related to licensure of teachers.
**Adm. Order No.:** TSPC 8-2015(Temp)
**Filed with Sec. of State:** 8-20-2015
**Certified to be Effective:** 8-20-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 584-060-0710, 584-060-0715, 584-090-0100, 584-090-0110, 584-300-0170
**Rules Suspended:** 584-090-0105, 584-090-0115, 584-060-0710(T), 584-060-0715(T), 584-300-0170(T)
**Subject:** Amends and suspends rules related to teacher licensure, including licensure redesign.
**Rules Coordinator:** Victoria Chamberlain—(503) 378-6813

**584-060-0710**
**Initial I Teaching License**

(1) The Initial I Teaching License qualifies its holder to teach in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school classrooms. The Initial I Teaching License is issued to new teachers who have successfully completed a Commission-approved teacher preparation program. The "Initial I Teaching License" will be administratively renamed to the "Preliminary Teaching License" on January 1, 2016.

(2) Authorization: The Initial I Teaching License qualifies the teacher to:

(a) Accept any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Initial I Teaching License; and

(b) Accept any substitute teaching assignment.

(3) The Initial I Teaching License is valid for three years and is renewable as provided by subsection (5) of this rule. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(4) To be eligible to apply for an Initial I Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure purposes;

(c) Admission to and completion of an Oregon Initial I teacher preparation program approved by the Commission or an equivalent new teacher program provided by a state-approved teacher preparation program in any U.S. jurisdiction, or a foreign teacher preparation program evaluated as satisfactory by the Commission;

(d) Receive a passing score as currently specified by the Commission on each of one or more tests of subject mastery for subject-matter endorsement or otherwise complete endorsement requirements established by the Commission;

(e) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics;

(f) Pass a background check by furnishing fingerprints in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application; and

(g) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(5) Renewal Requirements: To renew the Initial I Teaching License, an applicant must meet the following requirements:

(a) Meet the requirements for professional development pursuant to OAR chapter 584, division 90;

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(6) Sunset Clause: This rule is effective until January 1, 2016.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455-342.495 & 342.553
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15; TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

**584-060-0715**
**Professional Teaching License**

(1) Purpose of the License: The Professional Teaching License is a license that qualifies its holder to teach in prekindergarten through grade 12 Oregon public school district, education service districts, and charter school classrooms. The Professional Teaching License signifies that the educator is an experienced teacher who has successfully demonstrated an advanced level of educator knowledge, skills and dispositions.

(2) Authorization: The Professional Teaching License qualifies the teacher to:

(a) Accept any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Professional Teaching License; and

(b) Accept any substitute teaching assignment.

(3) The Professional Teaching License is valid for five years and is renewable in accordance with provisions contained in subsection (9) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(4) To qualify for the first Professional Teaching License, an applicant must:

(a) Complete teaching experience requirements as provided in subsection (5) of this rule;

(b) Demonstrate an advanced level of educator knowledge, skills and dispositions required to hold a Professional Teaching License as provided in subsection (6) of this rule.

(c) Meet the other qualifications and application requirements as provided in subsection (8) of this rule.

(5) Teaching Experience Requirements: To qualify for the Professional Teaching License, an educator must obtain four full years of teaching experience subject to the following conditions:

(a) One full year of teaching experience is equal to 135 days of at least six hours per day (or the approved equivalent) of classroom teaching within an academic year (July 1 to June 30);

(b) Substitute experience is not considered qualifying teaching experience under this subsection unless the educator is assigned to a single substitute assignment in accordance with subsection (5)(a) of this rule.

(c) The teaching experience must include direct instruction of prekindergarten through grade 12 students and must occur in one, or a combination of, the following employment settings:

(A) Public prekindergarten through grade 12 classroom;

(B) Private, regionally-accredited, prekindergarten through grade 12 classroom; or

(C) Alternative education, post-secondary or other similar teaching settings closely-related to prekindergarten through grade 12 classroom work as approved by the Commission's Director of Licensure for the agency.

(6) Evidence of Advanced Competencies: To qualify for a Professional Teaching License, an applicant must demonstrate evidence of advanced educator knowledge, skill and dispositions through one of the following methods:

(a) Advanced Professional Development Plan: An applicant may demonstrate advanced competencies by collaborating with their employing district to complete an advanced professional development plan. This plan must include:

(A) Validation by an Oregon school district, charter school or education service district that the applicant is employed pursuant to ORS 342.815 to 342.850;

(B) Verification that the applicant has completed advanced professional development units as provided in OAR chapter 584, division 90;

(C) Verification that the advanced professional development units completed while employed were in accordance with ORS 342.850 and 342.856 (evaluations); and

(D) Certification by an Oregon school district, charter school or education service district that the applicant has demonstrated advanced educator competencies in accordance with ORS 342.856 and OAR 584-018-0110 Knowledge Skills and Abilities for the Professional Teaching License (InTASC);

(b) Advanced Degree: Admission to and completion of an education-related educational specialist, masters or doctoral degree program from a regionally-accredited provider. The regionally-accredited advanced degree

program must include semester or quarter hours that equal at least 150 advanced professional development units in accordance with OAR 584-090-0100, Professional Development Requirements;

(c) Endorsement Program: Admission to and completion of a Commission-approved subject-matter endorsement program. All Commission-approved subject matter endorsement programs include semester or quarter hours equal to at least 150 advanced professional development units in accordance with OAR 584-090-0100, Professional Development Requirements;

(d) Specialization Program: Admission to and completion of a Commission-approved specialization program. All Commission-approved specialization programs include semester or quarter hours equal to at least 150 advanced professional development units in accordance with OAR 584-090-0100, Professional Development Requirements;

(e) Advanced Licensure: Admission to and completion of a Commission-approved advanced licensure program. All Commission-approved advanced licensure programs include semester or quarter hours equal to at least 150 advanced professional development units in accordance with OAR 584-090-0100, Professional Development Requirements;

(f) National Board Certification: National Board of Professional Teaching Standards certification.

(g) Out-of-State Professional Certification: A professional certificate issued by the State of Washington or other equivalent out-of-state professional teaching licenses approved by the Commission; or

(h) Other acceptable advanced coursework or assessment approved by the Commission.

(7) All evidence of advanced educator competencies required by subsection (6) of this rule must be equal to at least 150 advanced professional development units and must have been obtained by the applicant after the date of issuance of her or his first teaching license in Oregon or another state.

(8) Applications for Professional Teaching License: To be eligible to apply for a Professional Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Initial I, Initial II, Preliminary, Continuing, Basic, Standard, or an equivalent teaching license issued previously by the Commission or issued by another jurisdiction acceptable to the Commission;

(c) Complete the teaching experience requirements as provided in subsection (5) of this rule;

(d) Complete the evidence of advanced competencies requirements of subsection (6) of this rule;

(e) Continue to meet or pass a background check by furnishing fingerprints, if necessary, in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application.

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(9) Renewal Requirements: To renew the Professional Teaching License, the applicant must:

(a) Complete continuing professional development requirements in accordance with OAR chapter 584, division 90; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455-342.495 & 342.553
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15; TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

**584-090-0100**
**Professional Development Requirements**

(1) The Commission believes that high quality and individualized professional development for educators is essential to promote:

(a) Effective educational practices;

(b) Supportive educational leadership; and

(c) Enriched student learning.

(2) The Commission requires the completion of advanced or continuing professional development units for:

(a) Promotion to the Professional Teaching License (advanced);

(b) Renewal of most active educator licenses (continuing); and

(c) Renewal of School Nurses Certificates (continuing).

(3) Advanced and Continuing Professional Development Units (PDUs) are calculated as follows:

(a) One (1) hour of advanced or continuing professional development activity equals one (1) PDU;

(b) One (1) semester hour of college credit equals thirty (30) PDUs; or

(c) One (1) quarter hour of college credit equals twenty (20) PDUs.

(4) Advanced Professional Development for Professional Teaching License: The Commission requires advanced professional development to qualify for promotion to the Professional Teaching License. The purpose of the advanced professional development requirement is to demonstrate that the educator has obtained the advanced knowledge, skills and dispositions of an effective and experienced educator. To meet the advanced professional development requirements for promotion to the Professional Teaching License, the applicant must:

(a) Complete 25 advanced professional development units per year of the Initial I Teaching License term;

(b) Provide evidence that the advanced professional development units are designed to develop the professional competencies of the applicant through one of the following methods:

(A) Completion of an advanced professional development plan developed in cooperation with the employing district; or

(B) Completion of a Commission-approved program or other Commission-approved advanced competency method in accordance with OAR 584-060-0715, Professional Teaching License;

(c) Provide evidence that all completed professional development units meet the standards for advanced professional development in accordance with OAR 584-090-0110, Standards for Professional Development; and

(c) Fulfill all other requirements of OAR 584-060-0715, Professional Teaching License.

(5) Continuing professional development (CPD) for Licensure Renewal: The Commission requires continuing professional development for renewal of most active licenses and certificates.

(a) To qualify for renewal of a license, the applicant must complete 25 continuing professional development units (PDUs) per year of licensure term, as follows:

(A) 75 professional development units (PDUs) for a three year license; and

(B) 125 professional development units (PDUs) for a five (5) year license.

(b) Completing any of the following advanced certifications will waive continuing professional development requirements for the renewal period during which the certification is completed and the next licensure renewal cycle only:

(A) National Board of Professional Teaching Standards (NBPTS);

(B) National Association of School Psychologists certification (NASP);

(C) National School Counselor Certification (NCSC);

(D) National Association of Social Workers certification (C-SSWS); or

(E) Association of Speech, Hearing and Audiology (ASHA) certification.

(c) Licensed educators may carry-over excess continuing professional development units obtained only in the previous reporting renewal period as follows:

(A) Three year licenses: 25 PDUs;

(B) Five year licenses: 25 PDUs.

(d) If continuing professional development is required for renewal under subsection (5)(g) of this rule, the applicant for reinstatement of the renewable license must:

(A) Demonstrate completion of all professional development requirements obtained after the date on which their last active license was issued by the Commission; and

(B) Demonstrate that all continuing professional development units were obtained within the five (5) years immediately preceding the date the educator made application for reinstatement.

(e) New out-of-state educators may submit continuing professional development obtained prior to licensure in Oregon as a basis for licensure renewal so long as:

(A) The professional development was obtained within the five (5) years immediately preceding the date the educator first made application for licensure with the Commission; and

(B) The professional development is consistent with the requirements of OAR chapter 584, division 90;

(f) Educators who hold dual licensure with other state professional licensing boards are encouraged to fulfill their continuing professional development requirements by completing the professional development units provided by those professional licensure areas.

(g) The requirement for continuing professional development applies to the renewal of the following teaching, administration, and personnel service licenses:

(A) American Indian Language Teaching;

(B) Basic;

(C) Standard;

(D) Career and Technical Education II Teaching (See also, OAR 584-042-0051);

(E) Continuing;

(F) Five-Year Career and Technical Education Teaching;

(G) Five Year Teaching (pre-1965);

(H) Initial I Teaching License

(I) Initial II;

(J) Initial School Psychologist license;

(K) Professional;

(L) Limited;

(M) Distinguished Teaching License;

(N) Distinguished Administrator;

(O) Exceptional Administrator;

(P) Five Year Administrator (pre-1965);

(Q) Five Year Personnel Service (pre-1965); and

(6) Continuing Professional Development for School Nurse Certificates: To qualify for renewal of a School Nurse Certificate pursuant to OAR Chapter 584, Division 021, an applicant must:

(a) Meet the professional development requirements provided in OAR 584-021-0150 (Renewal of Professional School Nurse Certification); or

(b) Meet the professional development requirement provided in OAR 584-021-0155 (Emergency School Nurse Certification Renewal).

(7) It is the sole responsibility of the licensed educator to ensure accurate completion of the advanced professional development to be eligible for the Professional Teaching License or the continuing professional development to be eligible for renewal of a license or certificate. Generally, failure to complete the advanced professional development or continuing professional development does not constitute an "emergency" for the purposes of receiving an Emergency License.

(8) If employed during the life of the license, the supervisor or CPD advisor will verify that the educator has successfully completed all CPD requirements to the district superintendent or designee on the TSPC Professional Educational Experience Report (PEER) form prior to renewal of licensure.

(9) The following licenses do not have a professional development unit requirement because the licenses require the completion of additional specific coursework or other requirements to move to the next stage license:

(a) Initial Teaching license;

(b) All substitute licenses:

(c) Initial Administrator license;

(d) Initial I School Counselor license;

(e) Initial I School Social Worker license;

(f) Career and Technical Education I Teaching license;

(g) All restricted licenses;

(h) All emergency licenses;

(i) All transitional licenses; and

(j) Licenses for Conditional Assignment.

(10)(a) Educators holding a Career and Technical I Education teaching license may be subject to other continuing professional development requirements consistent with their formal professional development plan. See, OAR 584-042-0051 Career and Technical Education (CTE) Professional Development Plan to determine whether additional CPD requirements apply upon licensure renewal.

(b) Educators holding a Five-Year Career and Technical Education Teaching License or a Career and Technical Education II Teaching License are subject to the continuing professional development requirements in subsection (5) of this rule.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455-342.495 & 342.553

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12; TSPC 3-2013, f. & cert. ef. 8-19-13; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 3-2015, f. & cert. ef. 4-15-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

**584-090-0105**

**Professional Development Objectives**

High quality professional development increases the effectiveness of all educators and has characteristics that lead to:

(1) Effective teaching practices;

(2) Supportive leadership; and

(3) Improved student results.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455-342.495; 342.553

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12; Suspended by TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

**584-090-0110**

**Standards for Professional Development**

(1) Standards for advanced professional development: To qualify as advanced professional development for purposes of promotion to the Professional Teaching License, the advanced professional development units must be aligned with OAR 584-018-0110 Knowledge, Skills and Abilities for the Professional Teaching License and ORS 342.856 Core Teaching Standards (InTASC).

(2) Standards for continuing professional development: To qualify as continuing professional development for licensure renewal, the continuing professional development units must conform to the following national standards adopted by Learning Forward (2011):

(a) Learning Communities: Professional learning that increases educator effectiveness and results for all students occurs within learning communities committed to continuous improvement, collective responsibility, and goal alignment.

(b) Leadership: Professional learning that increases educator effectiveness and results for all students requires skillful leaders who: develop capacity, advocate and create support systems for professional learning.

(c) Resources: Professional learning that increases educator effectiveness and results for all students requires prioritizing, monitoring, and coordinating resources for educator learning.

(d) Data: Professional learning that increases educator effectiveness and results for all students uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning.

(e) Learning Designs: Professional learning that increases educator effectiveness and results for all students integrates theories, research, and models of human learning to achieve its intended outcomes.

(f) Implementation: Professional learning that increases educator effectiveness and results for all students applies research on change and sustains support for implementation of professional learning for long term change.

(g) Outcomes: Professional learning that increases educator effectiveness and results for all students aligns its outcomes with educator performance and student curriculum standards.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495; 342.553

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12; TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

**584-090-0115**

**Professional Development Generally**

(1) Applicants for licensure renewal must complete professional development units. The professional development requirements apply to all actively licensed and certified educators listed in OAR 584-090-0100(5).

(2) Professional Development Units (PDUs) are defined as follows:

(a) One (1) hour of approved professional development activity equals one (1) PDU;

(b) One (1) semester hour of college credit equals thirty (30) PDUs; or

(c) One (1) quarter hour of college credit equals twenty (20) PDUs.

(3) The professional development units (PDUs) required for licensure and certification renewal are as follows:

(a) Except as provided in subsection (4), all licensed educators shall report 25 PDUs per year of the licensure term. (Certified school nurses are not considered licensed educators and must meet only the PDU requirements of section (3)(b) of this rule.)

(A) 50 professional development units (PDUs) for a two year license;

(B) 75 professional development units (PDUs) for a three year license; and

(C) 125 professional development units (PDUs) for a five year license.

(b) School nurses certified pursuant to OAR Chapter 584, Division 021 shall meet the professional development requirements set forth in OAR

584-021-0150 (Renewal of Professional School Nurse Certification) and OAR 584-021-0155 (Emergency School Nurse Certification Renewal).

(4) The following licenses do not have a professional development unit requirement because the licenses require the completion of additional specific coursework or other requirements to move to the next stage license:

(a) Initial Teaching license;

(b) Initial I Teaching license (during the first two terms of the license);

(c) Initial Administrator license;

(d) Initial I School Counselor license;

(e) Initial I School Social Worker license;

(f) Initial School Psychologist license;

(g) Career and Technical Education I Teaching license;

(h) All restricted licenses, except the Restricted Substitute license;

(i) All emergency licenses; and

(j) All transitional licenses.

(5) PDUs for licensure renewal may be earned at any time during the life of the license; however, licensees may only carry-over into the next renewal cycle excess PDUs pursuant to section (8) below.

(6)(a) Educators holding a Career and Technical I Education teaching license may be subject to other continuing professional development requirements consistent with their formal professional development plan. See, OAR 584-042-0051 Career and Technical Education (CTE) Professional Development Plan to determine whether additional CPD requirements apply upon licensure renewal.

(b) Educators holding a Five-Year Career and Technical Education Teaching License or a Career and Technical Education II Teaching License are subject to the requirements in section (3) above.

(7) Completing any of the following advanced certifications will waive CPD for the renewal period during which the certification is completed and the next licensure renewal cycle only:

(a) National Board of Professional Teaching Standards (NBPTS);

(b) National Association of School Psychologists certification (NASP);

(c) National School Counselor Certification (NCSC);

(d) National Association of Social Workers certification (C-SSWS); or

(e) Association of Speech, Hearing and Audiology (ASHA) certification.

(8) Licensed educators may carry-over excess PDUs obtained only in the previous reporting renewal period as follows:

(a) Three year licenses: 25 PDUs;

(b) Five year licenses: 25 PDUs.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455-342.495 & 342.553

Hist.: TSPC 8-2012, f. & cert. ef. 8-15-12; TPSC 10-2012, f. & cert. ef. 11-19-12; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; Suspended by TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

**584-300-0170**

**Transition to New Licensure System**

(1) Endorsements:

(a) Effective July 1, 2015, the endorsements as provided in OAR 584-060-0725 will be placed on first-issue licenses and renewals.

(b) Multiple Subjects — Middle Level Endorsements: Effective July 1, 2015, the Multiple Subjects — Middle Level endorsement is abolished. The Multiple Subjects — Middle Level endorsement will not be added to or retained with an applicant's Initial, Initial I, Initial II, Continuing, Professional Teaching licenses or any future licenses the applicant holds. Current holders of the Multiple Subjects — Middle Level endorsement will be subject to the following transition provisions:

(A) If the applicant has been assigned and taught multiple subjects (self-contained) for four full years or more, as evidenced by Professional Educational Experience Report (PEER) forms, the Elementary-Multiple Subjects endorsement may be added to the license. If the applicant has not taught four full years or more in an assignment that requires a multiple subjects (self-contained) endorsement, the Elementary-Multiple Subject endorsement may not be added to the license. If necessary, the applicant and an Oregon school district may apply for an Emergency Teaching License pursuant to OAR 584-060-0210 or a License for Conditional Assignment (LCA) pursuant to 584-060-0250 while the applicant is in the process of qualifying for an Elementary — Multiple Subjects or another valid subject-matter endorsement.

(B) If the applicant has been assigned and taught Foundational Mathematics, Foundational English Language Arts, Foundational Social Sciences or Foundational Science for four full years or more, as evidenced by Professional Educational Experience Report (PEER) forms, the appropriate foundational single subject may be added to the license. If the applicant has not taught four full years in an assignment that requires a foundational subject matter endorsement, the foundational subject matter endorsement may not be added to or retained on the license. If necessary, the applicant and a district may apply for an Emergency Teaching License pursuant to OAR 584-060-0210 or a License for Conditional Assignment (LCA) pursuant to OAR 584-060-0250 while the applicant is in the process of qualifying for a valid subject-matter endorsement.

(2) Grade-Level Authorizations:

(a) Effective July 1, 2015, grade-level authorizations for Initial, Initial I, Initial II, Continuing, Professional Teaching and Distinguished Teacher Leader licenses are abolished and regardless of the printed grade authorizations held on the license, all licenses are authorized prekindergarten through grade 12 within the scope of the NCES course-codes assigned to the endorsements held on the license.

(b) Effective January 1, 2016, grade-level authorizations for Basic, Standard teaching licenses are abolished and regardless of the printed grade authorizations held on the license, all licenses are authorized prekindergarten through grade 12 within the scope of the NCES course-codes assigned to the endorsements held on the license.

(c) Effective July 1, 2015, licensees will no longer be advised that they must add a grade-level authorization program in order to expand the grade levels on their license.

(d) Licensees advised they were required to complete a grade-level authorization program will not be held for failure to complete that requirement, and school districts may assign teachers in accordance with subsections (2)(a) and (b) of this rule.

(e) The Commission will make every effort to identify these licensees to alert them to the new grade – level authorization changes.

(3) Initial I Teaching Licenses New Applicants:

(a) Effective July 1, 2015, new qualified applicants for an Initial I Teaching License will be issued a license in accordance with the Initial I teaching license rules adopted after July 1, 2015.

(b) Effective January 1 2016, these licenses will be administratively renamed to the Preliminary Teaching License.

(4) Initial I and Initial II Teaching Licenses Based on a an MAT or Post-Baccalaureate Preparation Program issued prior to July 1, 2015: General Provisions: Effective July 1 2015, the completion of the advanced coursework of six (6) semester or nine (9) quarter graduate hours required to advance to the Initial II Teaching License satisfies the advanced coursework requirements for the Professional Teaching License.

(5) Initial I Teaching Licenses Based on a Bachelor's Degree issued prior to July 1, 2015: General Provisions: Effective July 1, 2015, for Initial I Teaching Licenses based on a Bachelor's degree, the requirements to complete the master's degree or equivalent post-Initial I Teaching License are modified as follows:

(a) Admission to and completion of a master's degree or higher in education or in the arts and sciences from a regionally accredited institution, or the foreign equivalent of such degrees approved by the Commission, will satisfy the advanced professional development requirements of the Professional Teaching License.

(b) Completion of thirty (30) semester hours or forty-five (45) quarter hours of graduate coursework will be considered "equivalent" to completion of a master's degree.

(c) Effective July 1, 2015, the requirement that "equivalent" graduate coursework must include equal amounts of pedagogy; content; and electives [ten (10) semester or fifteen (15) quarter graduate hours each] has been eliminated.

(6) Initial I Teaching Licenses Based on a an MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2012 through June 30, 2015: First Renewal:

(a) Prior to the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions indicating the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for first renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Initial I Teaching License renewal requirements as provided in OAR 584-060-0710.

(d) If the applicant does not meet renewal requirements for either Initial I Teaching License renewal options, the applicant may not renew the license. The applicant may apply to reinstate the Initial I Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(7) Initial I Teaching Licenses Based on a Bachelor's Degree Issued Between July 1, 2012 through June 30, 2015: First Renewal:

(a) Upon first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for first renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Initial I Teaching License renewal requirements as provided in OAR 584-060-0710.

(d) If the applicant does not meet renewal requirements for either Initial I Teaching License renewal options, the applicant may not renew the license. The applicant may apply to reinstate the Initial I Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Generally, failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(8) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2009 through June 30 2012: Second Renewal:

(a) Upon second and final renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for second renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised additional 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Initial I Teaching License renewal requirements as provided in OAR 584-060-0710.

(d) If the applicant does not meet renewal requirements for either Initial I Teaching License renewal options, the applicant may not renew the license. The applicant may apply to reinstate the Initial I Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Generally, failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(f) If an applicant is eligible for the Professional Teaching License as provided in OAR 584-060-0715, the applicant will be issued the Professional Teaching License.

(9) Initial I Teaching Licenses Based on an MAT or Post-Baccalaureate Preparation Program Issued between July 1, 2009 through June 30, 2012:

(a) Qualified applicants who have completed the advanced coursework requirements and the professional experience requirement as previously advised by the Commission will be issued the Professional Teaching License.

(b) To qualify for the Professional Teaching License, applicants subject to this subsection must:

(A) Meet previously advised advanced coursework requirement of six (6) semester or nine (9) quarter graduate hours; or

(B) Meet the new requirements for the Professional Teaching License as provided in OAR 584-060-0715. Under this option, the applicant may use any qualifying coursework earned during the first two terms of her or his Initial I Teaching License to satisfy the new advanced professional development requirements.

(c) If an applicant is unable to meet requirements for the Professional Teaching License provided in subsection (9)(b) of this rule, the applicant will be issued a renewal of the Initial I Teaching License.

(d) To qualify for the Professional Teaching License, all applicants must meet the professional experience requirements provided in OAR 584-060-0715, Professional Teaching License.

(10) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2006 through June 30, 2009: No Further Renewals:

(a) Qualified applicants who have completed the advanced coursework requirements as previously advised by the Commission and the professional experience requirement will be issued the Professional Teaching License;

(b) To qualify for the Professional Teaching License, applicants subject to this subsection must:

(A) Meet previously advised advanced master's degree or equivalent coursework requirements for the Initial II Teaching License as modified by subsection (5) of this rule; or

(B) Meet the new requirements for the Professional Teaching License as provided in OAR 584-060-0715. Under this option, the applicant may use any qualifying coursework earned during the first two terms of her or his Initial I Teaching License to satisfy the new advanced professional development requirements.

(c) If an applicant is unable to meet requirements for the Professional Teaching License provided in subsection (10)(b) of this rule, the applicant will be issued a renewal of the Initial I Teaching License.

(d) To qualify for the Professional Teaching License, all applicants must meet the professional experience requirements provided in OAR 584-060-0715, Professional Teaching License.

(11) Initial II Teaching Licenses Effective July 1, 2015 Effective July 1, 2015, the Initial II Teaching License will no longer be issued. Qualified applicants who were issued the Initial II Teaching License prior July 1, 2015 are subject to the following:

(a) Qualified applicants are considered to have satisfied all advanced professional development requirements provided in OAR 584-060-0715, Professional Teaching License;

(b) Qualified applicants who have completed the teaching experience requirements provided in OAR 584-060-0715 will be issued the Professional Teaching License;

(c) Qualified applicants who do not have sufficient teaching experience to meet the requirements for OAR 584-060-0715, Professional Teaching License, will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0710, Initial I Teaching License.

(d) On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(12) Continuing Teaching Licenses.

(a) Effective March 1, 2014, the Continuing Teaching License is no longer issued.

(b) Qualified Continuing Teaching License holders will be issued a Professional Teaching License.

(13) Basic Teaching License Renewals.

(a) Effective January 1, 2016, the Basic Teaching License will no longer be issued.

(b) Qualified Basic Teaching License holders that have not met the requirements for a Professional Teaching License, may elect to obtain a Legacy Teaching License or may elect to obtain a Preliminary Teaching License.

(c) A holder of a Basic Teaching License may elect to obtain the Legacy Teaching license one time.

(d) If the Legacy Teaching License lapses, applicants must choose and be eligible for another available teaching license if they wish to reinstate a teaching license.

(e) A holder of a Basic Teaching License who first selected the Preliminary Teaching License upon expiration of their last Basic Teaching License, may elect one time to obtain the Legacy Teaching License.

(14) Standard Teaching License Renewals.

(a) Effective January 1, 2016, the Standard Teaching License will no longer be issued.

(b) Qualified Standard Teaching License holders will be issued a Professional Teaching License.

(15) First Time Out of State Applicants.

(a) Effective January 1, 2016, the Initial Teaching License will no longer be issued.

(b) Qualified new out of state applicants will be issued a Reciprocal Teaching License until such time as they qualify for either a Preliminary Teaching License or a Professional Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455-342.495 & 342.553

Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15; TSPC 8-2015(Temp), f. & cert. ef. 8-20-15 thru 12-27-15

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| 123-052-1500 | 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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| 255-085-0010 | 8-27-2015 | Adopt(T) | 10-1-2015 |
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| 259-008-0000 | 7-1-2015 | Amend | 8-1-2015 |
| 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 |
| 259-008-0010 | 7-1-2015 | Amend | 8-1-2015 |
| 259-008-0011 | 1-1-2015 | Amend | 2-1-2015 |
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| 259-008-0011 | 6-23-2015 | Amend | 8-1-2015 |
| 259-008-0015 | 12-29-2014 | Amend | 2-1-2015 |
| 259-008-0025 | 3-24-2015 | Amend | 5-1-2015 |
| 259-008-0025 | 7-1-2015 | Amend | 8-1-2015 |
| 259-008-0035 | 7-1-2015 | Amend | 8-1-2015 |
| 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 |
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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 |
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| 259-009-0059 | 6-23-2015 | Amend | 8-1-2015 |
| 259-009-0062 | 12-31-2014 | Amend | 2-1-2015 |
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| 259-013-0230 | 7-23-2015 | Amend | 9-1-2015 |
| 259-013-0250 | 7-23-2015 | Amend | 9-1-2015 |
| 259-013-0270 | 7-23-2015 | Amend | 9-1-2015 |
| 259-013-0280 | 7-23-2015 | Amend | 9-1-2015 |
| 259-013-0300 | 7-23-2015 | Amend | 9-1-2015 |
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| 259-020-0015 | 12-30-2014 | Amend | 2-1-2015 |
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| 259-060-0010 | 1-5-2015 | Amend | 2-1-2015 |
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| 259-060-0015 | 5-19-2015 | Amend(T) | 7-1-2015 |
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| 259-060-0145 | 5-19-2015 | Amend(T) | 7-1-2015 |
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| 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 |
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| 291-055-0019 | 12-29-2014 | Amend | 2-1-2015 |
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| 291-104-0135(T) | 5-21-2015 | Repeal | 7-1-2015 |
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| 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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| 291-130-0011 | 8-31-2015 | Amend | 10-1-2015 |
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| 291-130-0020 | 1-1-2015 | Amend(T) | 2-1-2015 |
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| 309-019-0125 | 3-25-2015 | Amend(T) | 5-1-2015 |
| 309-019-0125 | 5-28-2015 | Amend | 7-1-2015 |
| 309-019-0170 | 3-25-2015 | Amend(T) | 5-1-2015 |
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| 309-031-0010 | 12-12-2014 | Amend(T) | 1-1-2015 |
| 309-031-0010 | 5-28-2015 | Amend | 7-1-2015 |
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| 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 |
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| 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 |
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| 333-008-1080 | 1-28-2015 | Amend | 3-1-2015 |
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| 333-008-1225 | 1-28-2015 | Amend | 3-1-2015 |
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| 333-008-1275 | 1-28-2015 | Amend | 3-1-2015 |
| 333-008-1280 | 1-28-2015 | Amend | 3-1-2015 |
| 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 |
| 333-014-0090 | 12-17-2014 | Adopt | 2-1-2015 |
| 333-014-0090(T) | 12-17-2014 | Repeal | 2-1-2015 |
| 333-014-0100 | 12-17-2014 | Adopt | 2-1-2015 |
| 333-014-0100(T) | 12-17-2014 | Repeal | 2-1-2015 |
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| 333-018-0010 | 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 |
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| 333-019-0010(T) | 7-3-2015 | Repeal | 8-1-2015 |
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| 333-022-3000 | 9-3-2015 | Adopt | 10-1-2015 |
| 333-028-0220 | 5-6-2015 | Amend(T) | 6-1-2015 |
| 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 |

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| 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 |
| 333-102-0203 | 1-1-2015 | Amend | 2-1-2015 |
| 333-102-0305 | 1-1-2015 | Amend | 2-1-2015 |
| 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 |
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| 333-116-0130 | 1-1-2015 | Amend | 2-1-2015 |
| 333-116-0190 | 1-1-2015 | Amend | 2-1-2015 |
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| 333-265-0055 | 8-21-2015 | Adopt(T) | 10-1-2015 |
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| 333-500-0010 | 3-24-2015 | Amend(T) | 5-1-2015 |
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| 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 |
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| 333-500-0025(T) | 8-13-2015 | Repeal | 9-1-2015 |
| 333-500-0027 | 3-24-2015 | Adopt(T) | 5-1-2015 |
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| 333-500-0027(T) | 8-13-2015 | Repeal | 9-1-2015 |
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| 334-010-0033 | 7-1-2015 | Amend | 4-1-2015 |
| 334-020-0005 | 7-1-2015 | Amend | 4-1-2015 |
| 334-040-0010 | 7-1-2015 | Amend | 4-1-2015 |
| 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 |
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| 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 |
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| 340-103-0010 | 4-15-2015 | Amend | 5-1-2015 |
| 340-104-0001 | 4-15-2015 | Amend | 5-1-2015 |
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| 340-105-0140 | 4-15-2015 | Amend | 5-1-2015 |
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| 407-025-0010(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0020 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0020 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0020(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0030 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0030 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0030(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0040 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0040 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0040(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0050 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0050 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0050(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0060 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0060 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0060(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0070 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0070 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0070(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0080 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0080 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0080(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0090 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0090 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0090(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0100 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0100 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0100(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0110 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0110 | 8-9-2015 | Amend | 9-1-2015 |
| 407-025-0110(T) | 8-9-2015 | Repeal | 9-1-2015 |
| 407-025-0115 | 8-9-2015 | Adopt | 9-1-2015 |
| 407-025-0120 | 8-9-2015 | Repeal | 9-1-2015 |
| 407-070-0000 | 9-1-2015 | Adopt | 10-1-2015 |
| 407-120-1505 | 6-18-2015 | Amend | 8-1-2015 |
| 409-022-0010 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0020 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0030 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-022-0040 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-022-0050 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-022-0060 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0070 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0080 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-030-0110 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0140 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0150 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0160 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0170 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0180 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0190 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0210 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0220 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0230 | 7-1-2015 | Amend | 8-1-2015 |
| 409-035-0020 | 2-1-2015 | Amend | 2-1-2015 |
| 409-035-0040 | 2-1-2015 | Amend | 2-1-2015 |
| 409-040-0100 | 8-21-2015 | Repeal | 10-1-2015 |
| 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 |
| 409-055-0045 | 2-1-2015 | Adopt | 3-1-2015 |

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| 410-050-0861 | 12-1-2014 | Amend | 1-1-2015 |
| 410-050-0861(T) | 12-1-2014 | Repeal | 1-1-2015 |
| 410-120-0000 | 2-10-2015 | Amend | 3-1-2015 |
| 410-120-0000 | 5-29-2015 | Amend | 7-1-2015 |
| 410-120-0006 | 3-19-2015 | Amend(T) | 4-1-2015 |
| 410-120-0006 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-0006 | 10-1-2015 | Amend | 10-1-2015 |
| 410-120-0006(T) | 7-1-2015 | Repeal | 8-1-2015 |
| 410-120-0025 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1280 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1340 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-120-1340 | 3-4-2015 | Amend | 4-1-2015 |
| 410-120-1340(T) | 3-4-2015 | Repeal | 4-1-2015 |
| 410-120-1360 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1510 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1560 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1960 | 7-1-2015 | Amend | 8-1-2015 |
| 410-121-0030 | 12-12-2014 | Amend | 1-1-2015 |
| 410-121-0030 | 12-12-2014 | Amend(T) | 1-1-2015 |
| 410-121-0030 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-121-0030 | 3-3-2015 | Amend(T) | 4-1-2015 |
| 410-121-0030 | 4-18-2015 | Amend(T) | 6-1-2015 |
| 410-121-0030 | 6-26-2015 | Amend | 8-1-2015 |
| 410-121-0030 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 410-121-0030(T) | 12-12-2014 | Repeal | 1-1-2015 |
| 410-121-0030(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-121-0040 | 12-12-2014 | Amend | 1-1-2015 |
| 410-121-0040 | 12-12-2014 | Amend(T) | 1-1-2015 |
| 410-121-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-121-0040 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-121-0040 | 4-18-2015 | Amend(T) | 6-1-2015 |
| 410-121-0040 | 6-26-2015 | Amend | 8-1-2015 |
| 410-121-0040 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 410-121-0040 | 8-7-2015 | Amend(T) | 9-1-2015 |
| 410-121-0040 | 8-25-2015 | Amend(T) | 10-1-2015 |
| 410-121-0040(T) | 12-12-2014 | Repeal | 1-1-2015 |
| 410-121-0040(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-121-2000 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2005 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2010 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2020 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2030 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2050 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2065 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-122-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 410-122-0187 | 1-29-2015 | Adopt(T) | 3-1-2015 |
| 410-122-0187 | 4-15-2015 | Adopt | 5-1-2015 |
| 410-122-0187(T) | 4-15-2015 | Repeal | 5-1-2015 |
| 410-122-0202 | 1-1-2015 | Amend | 2-1-2015 |
| 410-122-0209 | 3-1-2015 | Amend | 4-1-2015 |
| 410-122-0520 | 1-1-2015 | Amend | 2-1-2015 |
| 410-123-1220 | 2-17-2015 | Amend(T) | 4-1-2015 |
| 410-123-1220 | 5-1-2015 | Amend | 6-1-2015 |
| 410-123-1220 | 10-1-2015 | Amend(T) | 10-1-2015 |
| 410-123-1220(T) | 5-1-2015 | Repeal | 6-1-2015 |
| 410-123-1240 | 10-1-2015 | Amend(T) | 10-1-2015 |
| 410-123-1260 | 2-17-2015 | Amend(T) | 4-1-2015 |
| 410-123-1260 | 5-1-2015 | Amend | 6-1-2015 |
| 410-123-1260 | 10-1-2015 | Amend(T) | 10-1-2015 |
| 410-123-1260(T) | 5-1-2015 | Repeal | 6-1-2015 |
| 410-130-0160 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 410-130-0160 | 4-1-2015 | Amend | 5-1-2015 |
| 410-130-0160(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 410-130-0200 | 3-10-2015 | Amend | 4-1-2015 |
| 410-130-0200(T) | 3-10-2015 | Repeal | 4-1-2015 |
| 410-130-0220 | 12-24-2014 | Amend(T) | 2-1-2015 |
| 410-130-0220 | 3-10-2015 | Amend | 4-1-2015 |
| 410-130-0220 | 5-29-2015 | Amend(T) | 7-1-2015 |
| 410-130-0220(T) | 3-10-2015 | Repeal | 4-1-2015 |
| 410-130-0240 | 1-1-2015 | Amend | 1-1-2015 |
| 410-132-0020 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0030 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0050 | 8-25-2015 | Repeal | 10-1-2015 |
| 410-132-0060 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0070 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0080 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0100 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0120 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0180 | 8-25-2015 | Amend | 10-1-2015 |
| 410-132-0200 | 8-25-2015 | Amend | 10-1-2015 |
| 410-141-0060 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 410-141-0060 | 3-1-2015 | Amend | 4-1-2015 |
| 410-141-0060(T) | 3-1-2015 | Repeal | 4-1-2015 |
| 410-141-0280 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-0280 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0280 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0300 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-0300 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0300 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0420 | 1-1-2015 | Amend | 1-1-2015 |
| 410-141-0420(T) | 1-1-2015 | Repeal | 1-1-2015 |
| 410-141-0520 | 12-31-2014 | Amend | 2-1-2015 |
| 410-141-0520 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-141-0520 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-0520 | 10-1-2015 | Amend(T) | 10-1-2015 |
| 410-141-0520(T) | 12-31-2014 | Repeal | 2-1-2015 |
| 410-141-0520(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 410-141-3040 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 410-141-3060 | 12-27-2014 | Amend(T) | 1-1-2015 |
| 410-141-3060 | 1-1-2015 | Amend | 1-1-2015 |
| 410-141-3060 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 410-141-3060 | 3-1-2015 | Amend | 4-1-2015 |
| 410-141-3060(T) | 1-1-2015 | Repeal | 1-1-2015 |
| 410-141-3060(T) | 3-1-2015 | Repeal | 4-1-2015 |
| 410-141-3065 | 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 |

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| 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 |
| 410-165-0000 | 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 |
| 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 |
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| 410-172-0160 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0170 | 1-1-2015 | Suspend | 2-1-2015 |
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| 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 |
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| 410-172-0290 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0300 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0310 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0320 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0340 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0350 | 1-1-2015 | Suspend | 2-1-2015 |
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| 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 |

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| 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 |
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| 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 |
| 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 |

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| 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 |
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| 410-200-0415 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0415(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0420 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0420(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0425 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0425(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0435 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0435(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0440 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0440 | 4-2-2015 | Amend(T) | 5-1-2015 |
| 410-200-0440 | 6-16-2015 | Amend(T) | 8-1-2015 |
| 410-200-0440(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0500 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0500(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0505 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0505(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0510 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0510(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 411-015-0100 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-015-0100 | 4-3-2015 | Amend | 5-1-2015 |
| 411-015-0100(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-020-0000 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0002 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0010 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0015 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0020 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0025 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0030 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0040 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0060 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0080 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0085 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0090 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0100 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0110 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0120 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0123 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0130 | 1-1-2015 | Amend | 1-1-2015 |
| 411-030-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-030-0040 | 4-3-2015 | Amend | 5-1-2015 |
| 411-030-0040(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-032-0050 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-032-0050 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 411-032-0050(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-035-0010 | 3-9-2015 | Amend | 4-1-2015 |
| 411-035-0010(T) | 3-9-2015 | Repeal | 4-1-2015 |
| 411-035-0015 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0015 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0015(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0025 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0025 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0025(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0040 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0040(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0055 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0055 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0055(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0070 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0070 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0070(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0085 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0085 | 4-3-2015 | Amend | 5-1-2015 |

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| 411-035-0085(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-050-0602 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0602 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0602(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0610 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0615 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0620 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0625 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0625 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0625(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0632 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0635 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0640 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0640 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0640(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0645 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0645 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0645(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0650 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0655 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0655 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0655(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0660 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0662 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0665 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0665 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0665(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-054-0005 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0012 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0090 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0093 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0120 | 1-29-2015 | Amend(T) | 3-1-2015 |
| 411-054-0120 | 6-28-2015 | Amend | 8-1-2015 |
| 411-054-0120(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-054-0200 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0200 | 6-24-2015 | Amend | 8-1-2015 |
| 411-054-0300 | 1-15-2015 | Amend | 2-1-2015 |
| 411-070-0005 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0027 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0035 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0043 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0091 | 3-9-2015 | Amend | 4-1-2015 |
| 411-085-0005 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0005 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0005(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0010 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0010 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0010(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0013 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0013 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0013(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0015 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0015 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0015(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0030 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0030 | 6-28-2015 | Amend | 8-1-2015 |
| 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 |
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| 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 |
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| 411-089-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
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| 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 |

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| 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(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0130 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0130(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0140 | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0150 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0150(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0155 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0165 | 2-16-2015 | Adopt | 3-1-2015 |
| 411-300-0165(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0170 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0170(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0175 | 2-16-2015 | Adopt | 3-1-2015 |
| 411-300-0190 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0190(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0200 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0200(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0205 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0205(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0210 | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0220 | 2-16-2015 | Repeal | 3-1-2015 |
| 411-308-0010 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0010 | 1-29-2015 | Amend | 3-1-2015 |
| 411-308-0020 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0020 | 1-29-2015 | Amend | 3-1-2015 |
| 411-308-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-308-0030 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0030 | 1-29-2015 | Amend | 3-1-2015 |
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| 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 |
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| 411-308-0050(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-308-0060 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0060 | 1-29-2015 | Amend | 3-1-2015 |
| 411-308-0060(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-308-0070 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0070 | 1-29-2015 | Amend | 3-1-2015 |
| 411-308-0070(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-308-0080 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0080 | 1-29-2015 | Amend | 3-1-2015 |
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| 411-308-0090 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-308-0120 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0120 | 1-29-2015 | Amend | 3-1-2015 |
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| 411-308-0130 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-308-0130(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-308-0135 | 12-28-2014 | Adopt | 2-1-2015 |
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| 411-308-0140 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-308-0150 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0150 | 1-29-2015 | Amend | 3-1-2015 |
| 411-317-0000 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-317-0000(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0000 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0000(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0005 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0005(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0010 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0010(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0015 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0015(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0025 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0025(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0030 | 12-28-2014 | Adopt | 2-1-2015 |
| 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 |
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| 411-320-0090 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-320-0100 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-320-0110 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-320-0120 | 12-28-2014 | Amend | 2-1-2015 |
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| 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 |

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| 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 |
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| 411-323-0060 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-323-0070 | 12-28-2014 | Amend | 2-1-2015 |
| 411-323-0070(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0020 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-325-0120 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-325-0185 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-325-0400 | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-325-0460 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0550 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0560 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0570 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0680 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0690 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0700 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0715 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0740 | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-328-0750(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-328-0760 | 12-28-2014 | Amend | 2-1-2015 |
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| 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 |
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| 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 |

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| 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 |
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| 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 |
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| 411-345-0085 | 12-28-2014 | Adopt | 2-1-2015 |
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| 411-345-0095 | 12-28-2014 | Amend | 2-1-2015 |
| 411-345-0095(T) | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-345-0190 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-345-0240 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-346-0150 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-350-0010 | 2-16-2015 | Amend | 3-1-2015 |
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| 411-350-0020(T) | 2-16-2015 | Repeal | 3-1-2015 |
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| 411-350-0030 | 4-10-2015 | Amend(T) | 5-1-2015 |
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| 411-350-0050 | 2-16-2015 | Amend | 3-1-2015 |
| 411-350-0050 | 3-12-2015 | Amend | 4-1-2015 |
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| 411-350-0075(T) | 2-16-2015 | Repeal | 3-1-2015 |
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| 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 |

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| 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 |
| 413-010-0010 | 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(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-0400 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0409 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0409(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-0415 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0415(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-0420 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0420(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-0432 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0432(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-0450 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0540 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-0540(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-1105 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-1105(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-015-9000 | 4-1-2015 | Amend | 5-1-2015 |
| 413-015-9020 | 4-1-2015 | Amend | 5-1-2015 |
| 413-015-9030 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-9040 | 12-24-2014 | Amend | 2-1-2015 |
| 413-015-9040(T) | 12-24-2014 | Repeal | 2-1-2015 |
| 413-030-0405 | 5-22-2015 | Amend(T) | 7-1-2015 |
| 413-070-0000 | 7-17-2015 | Amend | 9-1-2015 |
| 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 |
| 413-070-0027 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0030 | 7-17-2015 | Amend | 9-1-2015 |
| 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 |
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| 413-070-0075 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0081 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0190 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0240 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0320 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0505 | 5-22-2015 | Amend(T) | 7-1-2015 |
| 413-070-0505 | 7-17-2015 | Repeal | 9-1-2015 |

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| 413-070-0512 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0514 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0518 | 9-1-2015 | Amend(T) | 10-1-2015 |
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| 413-070-0524 | 7-17-2015 | Repeal | 9-1-2015 |
| 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 |
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| 413-070-0620 | 7-17-2015 | Repeal | 9-1-2015 |
| 413-070-0651 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0655 | 2-1-2015 | Amend | 3-1-2015 |
| 413-070-0655 | 5-22-2015 | Amend(T) | 7-1-2015 |
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| 413-070-0670 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0810 | 5-22-2015 | Amend(T) | 7-1-2015 |
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| 413-070-0860 | 7-17-2015 | Amend | 9-1-2015 |
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| 413-070-0905 | 1-21-2015 | Amend(T) | 3-1-2015 |
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| 413-070-0905 | 7-17-2015 | Amend | 9-1-2015 |
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| 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 |
| 413-070-0917 | 1-21-2015 | Amend(T) | 3-1-2015 |
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| 413-070-0917 | 8-19-2015 | Amend(T) | 10-1-2015 |
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| 413-070-0925 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0934 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0939 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0949 | 1-21-2015 | Amend(T) | 3-1-2015 |
| 413-070-0949 | 7-17-2015 | Amend | 9-1-2015 |
| 413-070-0949(T) | 7-17-2015 | Repeal | 9-1-2015 |
| 413-070-0959 | 7-17-2015 | Amend | 9-1-2015 |
| 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 |
| 413-090-0000 | 8-4-2015 | Amend | 9-1-2015 |
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| 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 |
| 413-090-0110 | 1-1-2015 | Amend | 2-1-2015 |
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| 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 |
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| 413-090-0210 | 1-1-2015 | Amend | 2-1-2015 |
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| 413-090-0530 | 8-4-2015 | Amend | 9-1-2015 |
| 413-110-0110 | 5-22-2015 | Amend(T) | 7-1-2015 |
| 413-120-0010 | 2-1-2015 | Amend | 3-1-2015 |
| 413-120-0010 | 5-22-2015 | Amend(T) | 7-1-2015 |
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| 413-120-0020 | 9-1-2015 | Amend(T) | 10-1-2015 |
| 413-120-0021 | 9-1-2015 | Amend(T) | 10-1-2015 |
| 413-120-0035 | 9-1-2015 | Amend(T) | 10-1-2015 |
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| 413-120-0521 | 9-1-2015 | Suspend | 10-1-2015 |
| 413-120-0541 | 9-1-2015 | Suspend | 10-1-2015 |
| 413-120-0570 | 9-1-2015 | Suspend | 10-1-2015 |
| 413-120-0580 | 9-1-2015 | Suspend | 10-1-2015 |
| 413-120-0590 | 9-1-2015 | Suspend | 10-1-2015 |
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| 413-120-0720 | 9-1-2015 | Amend(T) | 10-1-2015 |
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| 413-120-0760 | 9-1-2015 | Amend(T) | 10-1-2015 |
| 413-130-0010 | 5-22-2015 | Amend(T) | 7-1-2015 |
| 413-200-0414 | 12-24-2014 | Amend | 2-1-2015 |
| 413-200-0414(T) | 12-24-2014 | Repeal | 2-1-2015 |

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| 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 |
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| 418-010-0030 | 12-1-2014 | Adopt | 1-1-2015 |
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| 418-020-0010 | 12-1-2014 | Adopt | 1-1-2015 |
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| 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 |
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| 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 |
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| 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 |

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| 436-009-0060 | 4-1-2015 | Amend | 4-1-2015 |
| 436-009-0080 | 4-1-2015 | Amend | 4-1-2015 |
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| 436-010-0003 | 10-1-2015 | Repeal | 10-1-2015 |
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| 436-010-0220 | 10-1-2015 | Amend | 10-1-2015 |
| 436-010-0230 | 10-1-2015 | Amend | 10-1-2015 |
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| 436-010-0241 | 10-1-2015 | Adopt | 10-1-2015 |
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| 436-010-0270 | 10-1-2015 | Amend | 10-1-2015 |
| 436-010-0275 | 10-1-2015 | Repeal | 10-1-2015 |
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| 436-010-0330 | 10-1-2015 | Amend | 10-1-2015 |
| 436-010-0340 | 10-1-2015 | Amend | 10-1-2015 |
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| 436-030-0015 | 5-21-2015 | Amend(T) | 7-1-2015 |
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| 436-030-0023 | 5-21-2015 | Amend(T) | 7-1-2015 |
| 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 |
| 436-030-0125 | 5-21-2015 | Amend(T) | 7-1-2015 |
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| 436-035-0013 | 3-1-2015 | Amend | 3-1-2015 |
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| 436-035-0250 | 3-1-2015 | Amend | 3-1-2015 |
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| 436-110-0350 | 3-1-2015 | Amend | 3-1-2015 |
| 436-120-0005 | 3-1-2015 | Amend | 3-1-2015 |
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| 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 |
| 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 |
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| 441-035-0130 | 1-15-2015 | Adopt | 2-1-2015 |
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| 441-035-0150 | 1-15-2015 | Adopt | 2-1-2015 |
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| 441-035-0180 | 1-15-2015 | Adopt | 2-1-2015 |
| 441-035-0190 | 1-15-2015 | Adopt | 2-1-2015 |
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| 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 |
| 441-875-0075 | 1-1-2015 | Am. & Ren. | 2-1-2015 |
| 441-880-0400 | 5-21-2015 | Amend(T) | 7-1-2015 |
| 441-910-0099 | 9-15-2015 | Amend | 10-1-2015 |
| 441-930-0270 | 5-21-2015 | Amend(T) | 7-1-2015 |
| 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 |
| 459-007-0009 | 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 |

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| 459-080-0250 | 3-30-2015 | Amend | 5-1-2015 |
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| 461-110-0210 | 6-30-2015 | Amend | 8-1-2015 |
| 461-110-0430 | 4-1-2015 | Amend | 4-1-2015 |
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| 461-115-0071 | 1-1-2015 | Amend | 2-1-2015 |
| 461-115-0071(T) | 1-1-2015 | Repeal | 2-1-2015 |
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| 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(T) | 12-8-2014 | Suspend | 1-1-2015 |
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| 461-135-0407 | 4-1-2015 | Amend | 5-1-2015 |
| 461-135-0780 | 1-1-2015 | Amend | 2-1-2015 |
| 461-135-0825 | 7-1-2015 | Repeal | 8-1-2015 |
| 461-135-0834 | 4-1-2015 | Amend | 5-1-2015 |
| 461-140-0040 | 3-19-2015 | Amend | 5-1-2015 |
| 461-145-0050 | 4-1-2015 | Amend | 4-1-2015 |
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| 461-145-0120 | 4-1-2015 | Amend | 5-1-2015 |
| 461-145-0130 | 4-1-2015 | Amend | 4-1-2015 |
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| 461-145-0910 | 4-1-2015 | Amend | 4-1-2015 |
| 461-145-0930 | 4-1-2015 | Amend | 4-1-2015 |
| 461-155-0020 | 7-1-2015 | Amend | 8-1-2015 |
| 461-155-0150 | 3-23-2015 | Amend(T) | 5-1-2015 |
| 461-155-0150 | 6-30-2015 | Amend | 8-1-2015 |
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| 461-155-0300 | 1-1-2015 | Amend | 2-1-2015 |
| 461-160-0015 | 1-1-2015 | Amend | 2-1-2015 |
| 461-160-0015(T) | 1-1-2015 | Repeal | 2-1-2015 |
| 461-160-0055 | 3-10-2015 | Amend(T) | 4-1-2015 |
| 461-160-0055 | 6-30-2015 | Amend | 8-1-2015 |
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| 461-165-0030 | 4-1-2015 | Amend | 5-1-2015 |
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| 461-165-0180 | 6-30-2015 | Amend | 8-1-2015 |
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| 461-170-0101 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 461-170-0101 | 6-30-2015 | Amend | 8-1-2015 |
| 461-175-0210 | 4-1-2015 | Amend | 5-1-2015 |
| 461-175-0210(T) | 4-1-2015 | Repeal | 5-1-2015 |
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| 461-180-0070 | 7-23-2015 | Amend(T) | 9-1-2015 |
| 461-190-0211 | 1-1-2015 | Amend(T) | 2-1-2015 |
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| 461-195-0621 | 7-1-2015 | Amend | 8-1-2015 |
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| 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 |
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| 578-033-0246 | 6-30-2015 | Repeal | 8-1-2015 |

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| 578-072-0091 | 6-30-2015 | Repeal | 8-1-2015 |
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| 581-015-2040 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2080 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2245 | 12-17-2014 | Amend | 2-1-2015 |
| 581-015-2320 | 3-11-2015 | Amend | 4-1-2015 |
| 581-015-2565 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2572 | 7-13-2015 | Amend | 8-1-2015 |
| 581-018-0130 | 7-15-2015 | Amend(T) | 8-1-2015 |
| 581-018-0133 | 12-4-2014 | Adopt | 1-1-2015 |
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| 581-018-0148 | 7-15-2015 | Amend(T) | 8-1-2015 |
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| 581-020-0065 | 12-4-2014 | Renumber | 1-1-2015 |
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| 581-022-0102 | 7-1-2015 | Amend | 3-1-2015 |
| 581-022-1130 | 12-17-2014 | Amend | 2-1-2015 |
| 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 |
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| 582-001-0010 | 1-1-2015 | Amend | 2-1-2015 |
| 582-050-0000 | 1-1-2015 | Amend | 2-1-2015 |
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| 584-060-0682 | 7-1-2015 | Amend(T) | 8-1-2015 |
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| 635-005-0355 | 2-6-2015 | Amend(T) | 3-1-2015 |
| 635-005-0355 | 8-26-2015 | Amend(T) | 10-1-2015 |
| 635-005-0465 | 11-25-2014 | Amend(T) | 1-1-2015 |
| 635-005-0480 | 3-16-2015 | Amend(T) | 5-1-2015 |
| 635-005-0485 | 11-25-2014 | Amend(T) | 1-1-2015 |
| 635-005-0920 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-006-0209 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 635-006-0209 | 1-15-2015 | Amend | 2-1-2015 |
| 635-006-0209(T) | 1-15-2015 | Repeal | 2-1-2015 |
| 635-006-0210 | 8-4-2015 | Amend(T) | 9-1-2015 |
| 635-006-0212 | 4-27-2015 | Amend | 6-1-2015 |
| 635-006-0212 | 5-1-2015 | Amend(T) | 5-1-2015 |
| 635-006-0212 | 5-1-2015 | Amend(T) | 6-1-2015 |
| 635-006-0212(T) | 4-27-2015 | Repeal | 6-1-2015 |
| 635-006-0213 | 4-27-2015 | Amend | 6-1-2015 |
| 635-006-0215 | 1-15-2015 | Amend | 2-1-2015 |
| 635-006-0215 | 5-1-2015 | Amend(T) | 5-1-2015 |
| 635-006-0225 | 5-1-2015 | Amend(T) | 5-1-2015 |
| 635-006-0232 | 1-13-2015 | Amend | 2-1-2015 |
| 635-008-0040 | 8-12-2015 | Amend | 9-1-2015 |
| 635-008-0050 | 8-12-2015 | Amend | 9-1-2015 |
| 635-008-0068 | 8-12-2015 | Adopt | 9-1-2015 |
| 635-008-0115 | 8-12-2015 | Amend | 9-1-2015 |
| 635-011-0100 | 1-1-2015 | Amend | 2-1-2015 |
| 635-011-0104 | 1-1-2015 | Amend | 2-1-2015 |
| 635-012-0090 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-012-0100 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-013-0003 | 4-27-2015 | Amend | 6-1-2015 |
| 635-013-0004 | 1-1-2015 | Amend | 2-1-2015 |
| 635-013-0007 | 4-27-2015 | Amend | 6-1-2015 |
| 635-014-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-014-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-014-0090 | 4-1-2015 | Amend(T) | 5-1-2015 |
| 635-014-0090 | 6-23-2015 | Amend | 8-1-2015 |
| 635-014-0090 | 6-24-2015 | Amend(T) | 8-1-2015 |
| 635-014-0090 | 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 |

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| 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(T) | 8-3-2015 | Suspend | 9-1-2015 |
| 635-018-0090(T) | 9-1-2015 | Suspend | 10-1-2015 |
| 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 |
| 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(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(T) | 8-17-2015 | Suspend | 9-1-2015 |
| 635-041-0075(T) | 9-14-2015 | Suspend | 10-1-2015 |

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| 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 |
| 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 |
| 635-042-0060 | 9-15-2015 | Amend(T) | 10-1-2015 |
| 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 |
| 635-043-0151 | 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 |
| 635-045-0000 | 6-11-2015 | Amend | 7-1-2015 |
| 635-045-0000 | 8-12-2015 | Amend | 9-1-2015 |
| 635-048-0005 | 12-10-2014 | Amend | 1-1-2015 |
| 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 |
| 635-060-0000 | 8-12-2015 | Amend | 9-1-2015 |
| 635-065-0001 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0011 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0015 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0015 | 6-11-2015 | Amend | 7-1-2015 |
| 635-065-0090 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0401 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0625 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0705 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0705(T) | 1-6-2015 | Repeal | 2-1-2015 |
| 635-065-0740 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0760 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 635-065-0760 | 6-11-2015 | Amend | 7-1-2015 |

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| 635-065-0760(T) | 6-11-2015 | Repeal | 7-1-2015 |
| 635-065-0765 | 1-6-2015 | Amend | 2-1-2015 |
| 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 |
| 635-068-0000 | 2-26-2015 | Amend | 4-1-2015 |
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| 820-005-0015 | 8-19-2015 | Adopt(T) | 10-1-2015 |

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| 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 |