

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form.

I certify that the attached copies\* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [ August 11, 2009 ]  
by the

Date prior to or same as filing date

Oregon Board of Parole & Post-Prison Supervision		OAR chapter 255
Agency and Division		Administrative Rules Chapter Number
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Rules Coordinator	Address	Telephone

to become effective August 21, 2009 through February 16, 2010  
Date upon filing or later A maximum of 180 days including the effective date.

**RULE CAPTION**

Amending division 94 to expand the jurisdiction and to add definitions  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

List each rule number separately, 000-000-0000.

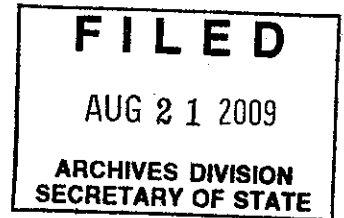
ADOPT: Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing  
255-094-0001

AMEND & RENUMBER: 255-094-0000 to 255-094-0005

AMEND: 255-094-0010, 255-094-0015, 255-094-0020

SUSPEND:

BOPPPS  
SEP 16 2009



Stat. Auth.: ORS 144.085, SB 1145 (passed in 1995 Legislative session), Ch. 163 & 924 (1999 OL)

Other Auth.: None

Stats. Implemented: None

**RULE SUMMARY**

These rules are being amended to add a "Definition" section, and to include the Local Supervisory Authority in the rules.

Adding 255-094-0001 to provide definition of Releasing Authority

Renumbering 255-094-0000 to 255-094-0005 to better organize the rules of Division 94 and because of the new rule added at the beginning of the division.

*Darcey L. Baker*  
Authorized Signer

Darcey L. Baker  
Printed name

September 8, 2009  
Date

\*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.  
ARC 940-2005

**STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Board of Parole and Post-Prison Supervision  
Agency and Division

OAR chapter 255  
Administrative Rules Chapter Number

In the Matter of: Rulemaking – Amending Division 94

Rule Caption: Amending Division 94 to expand the jurisdiction and add definitions.

Statutory Authority: ORS 144.085, SB1145 (passed in 1995 Legislative session), Ch. 163 & 923 (1999 OL)

Other Authority: None

Stats. Implemented: None

Need for the Temporary Rule(s): The amendment of these rules is necessary to maintain consistency of Board rules under HB 3508, section 23 (2009), with Local Supervisory Authority jurisdiction, relating to inactive supervision.

Documents Relied Upon, and where they are available: None.

Justification of Temporary Rule(s): These rules are necessary in order to effectively and efficiently establish procedures for setting periods of active supervision for parole and post-prison supervision, and also for setting periods of inactive parole and post-prison supervision.

*Darcey L. Baker*                      Darcey L. Baker                      August 21 2009  
Authorized Signer                                      Printed name                                      Date

# BOARD OF PAROLE AND POST-PRISON SUPERVISION

## DIVISION 94

### ACTIVE AND INACTIVE PAROLE AND POST-PRISON SUPERVISION FOR OFFENDERS UNDER THE JURISDICTION OF THE BOARD OF PAROLE AND POST-PRISON SUPERVISION OR LOCAL SUPERVISORY AUTHORITY

255-094-0001

#### Definitions

(1) Releasing Authority means:

(a) The Board or its designee for:

(A) Any felony offender who received a sentence of more than twelve (12) months in the custody of the Department of Corrections; or

(B) Any felony offender who received a sentence of twelve (12) months or less but who also has an additional sentence(s) of greater than twelve (12) months.

(i) If an offender is on post-prison supervision for multiple sentences which include a sentence that exceeds twelve (12) months ("Board case") and sentence of twelve (12)-months or less ("Local Supervisory Authority case"), the Board will maintain jurisdiction of the post-prison supervision of the Local Supervisory Authority case until the Board's active involvement in the Board case(s) expires. Following expiration of the Board's case(s), the Board will maintain jurisdiction over the post-prison supervision of the Local Supervisory Authority case(s) until an offender is re-released following revocation of the post-prison supervision for the Local Supervisory Authority case(s), or until the Local Supervisory Authority petitions to assume jurisdiction, whichever comes first. Jurisdiction will fall under the Local Supervisory Authority at that point.

(ii) If the Board issued the order of post-prison supervision for an offender whose only sentence was twelve (12) months or less, jurisdiction will remain with the Board until petition by the Supervisory Authority to assume jurisdiction or upon re-release following revocation of the post-prison supervision for that sentence; whichever comes first.

(b) The Local Supervisory Authority or its designee for any felony offender whose crime was committed after November 1, 1989, was sentenced by the court to twelve (12) months or less, and who does not have an additional sentence of more than twelve (12) months for a felony.

**Period of Active Parole or Post-Prison Supervision**

(1) The minimum periods of active parole and post-prison supervision shall be:

(a) Six (6) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 1, 2 and 3;

(b) Twelve (12) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 4, 5, 6, 7, 8, 9 and 10;

(c) For offenders whose crimes were committed after December 4, 1986, but prior to November 1, 1989, the period of active supervision shall be set by determining the equivalent sentencing guidelines crime category and applying sub-section (a) and (b) above, subject to the exceptions in section (2) below;

(d) For offenders whose crimes were committed prior to December 4, 1986, the Releasing Authority shall apply the rules in effect at the time the crime was committed.

(2) The following minimum periods of active parole and post-prison supervision are exceptions to section (1) of this rule:

(a) Three (3) years for offenders sentenced as dangerous offenders under ORS 161.725 to 161.737;

(b) Three (3) years for offenders sentenced for murder under ORS 163.115;

(c) Three (3) years for offenders sentenced for aggravated murder under ORS 163.105;

(d) Offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, Sex Abuse 2, and Attempts of these which occurred on or after September 29, 1991, shall serve active supervision to the expiration of the indeterminate sentence;

(e) Offenders sentenced for Sex Abuse I or Attempted Sex Abuse I for crimes occurring on or after November 4, 1993, shall serve active supervision to the expiration of the indeterminate sentence;

(f) Offenders sentenced for Sodomy II or Rape II for crimes occurring on or after October 23, 1999, shall serve active supervision to the expiration of the indeterminate sentence.

(g) Offenders sentenced for Sex Abuse I or Attempted Sex Abuse I, for crimes which occurred on or after November 1, 1989, and prior to November 4, 1993, will serve active supervision in accordance with the period of post-prison supervision set by the sentencing court and the sentencing guidelines grid;

(h) Offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, or Sexual Abuse I, which occurred on or after December 4, 1986, and prior to November 1, 1989, shall serve a minimum of 36 months active supervision or to expiration of the sentence which ever comes first;

(i) Offenders sentenced for Robbery in the First Degree under ORS 164.415 which occurred on or after June 30, 1995, shall serve a minimum period of 36 months active supervision; and

(j) Offenders sentenced for Arson in the First Degree under ORS 164.325 which occurred on or after June 30, 1995, shall serve minimum period of 36 months active supervision; and

(k) Offenders sentenced as sexually violent dangerous offenders pursuant to Chapter 163 (1999 OR Laws) for crimes committed on or after October 23, 1999, shall serve active supervision for life.

(3) Upon completion of the specified period of active parole or post-prison supervision, the supervisory authority shall place the offender on inactive supervision status subject to the exceptions in OAR 255-094-0010, and notify the Releasing Authority of the status change.

(4) Upon revocation of supervision and rerelease to the community, the period of active supervision shall be as provided in OAR 255-094-0001(1) & (2) provided that the period of active supervision does not exceed the sentence expiration date.

(5) After a rereleased offender has completed the minimum active supervision period as provided in OAR 255-094-0001(1)(2) and has substantially fulfilled the conditions of supervision, the supervising officer may place the offender on inactive supervision.

(6) Inmate/offenders found to be sexually violent dangerous offenders pursuant to OAR 255-060-0008(6) shall be subject to intensive supervision for the full period of parole or post-prison supervision as defined in OAR 255-005.

Stat. Auth.: ORS 144.085, SB 1145 (passed in 1995 Legislative session), Ch. 163 & 924 (1999 OL)

Stats. Implemented: ORS 144.085, SB 1145, OL 1995 & Ch. 163 & 924, 1999 OL

Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 4-2000, f. & cert. ef. 2-15-00; PAR 2-2001, f. & cert. ef. 1-12-01; PAR 2-2005, f. & cert. ef. 4-25-05

#### **255-094-0010**

#### **Exceptions to Inactive Supervision and Return to Active Supervision**

(1) No sooner than thirty days prior to the expiration of the offender's active period of supervised parole or post-prison supervision or during a period of inactive supervision, the supervising officer or designee may send to the Releasing Authority a report on offenders who have not substantially fulfilled the supervision conditions, or who have failed to complete payment of

restitution. The supervising officer or designee may request continuation on active supervision, or return to active supervision if it is in the community's or the offender's best interest. This report shall include:

- (a) An evaluation of the offender's compliance with supervision conditions;
- (b) The status of the offender's court ordered monetary obligations, including fines and restitution, if any;
- (c) The offender's employment status;
- (d) The offender's address;
- (e) Treatment program outcome;
- (f) Any new criminal activity;
- (g) Other relevant information;
- (h) A recommendation that the Releasing Authority extend the active supervision period or return the offender to active supervision.

(2) After reviewing the report, if the Releasing Authority or its designated representative finds the offender has not substantially fulfilled the supervision conditions, or it is in the offender's or the community's best interest, the Releasing Authority may order that the offender remain on active supervision or return to active supervision for the remainder of the supervision period set by the sentencing court or set by law. The Releasing Authority shall send the offender notice of the continuation or return to active supervision.

(3) Once extended or returned to active supervision, the supervising officer may place the offender on inactive supervision when the offender has substantially fulfilled the conditions of supervision and completed restitution payments, or active supervision is no longer in the best interest of the offender and the community.

(4) When an offender being supervised in Oregon is placed on inactive supervision, the general and special conditions of supervision remain in effect with the following exceptions:

(a) General condition #1: Pay supervision fees (fines, restitution or other fees previously ordered by the Releasing Authority remain in effect).

(b) Special Conditions specifically deleted by the Releasing Authority.

(5) An offender being supervised via Interstate Compact is not eligible to be placed on unsupervised status.

Stat. Auth.: ORS 144.085 & SB1145 (passed during 1995 Legislative session)  
Stats. Implemented: ORS 144.085 & SB 1145, OL 1995  
Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 2-2005, f. & cert. ef. 4-25-05

**255-094-0015**

### **Return to Active Supervision**

- (1) An offender is subject to arrest for violations of conditions of supervision while on either active or inactive supervision.
- (2) The Releasing Authority may return an offender to active supervision for the remainder of the supervision period set by the sentencing court or set by law when the Releasing Authority receives a report from the supervising agency showing good cause why the inactive status is no longer in the offender's best interest or the best interest or safety of the community.
- (3) If the supervising agency has good cause to return an offender to active supervision, and the whereabouts of the offender are unknown, the supervising agency may request a warrant from the Releasing Authority.
- (4) When an offender is returned to active supervision status, all general conditions plus all previously imposed special conditions shall be in effect.

Stat. Auth.: ORS 144.085 & SB 1145, OL 1995  
Stats. Implemented: ORS 144.085 & SB 1145, OL 1995  
Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 2-2001, f. & cert. ef. 1-12-01

**255-094-0020**

### **Sentence Expiration**

- (1) During the pendency of violation proceedings, the running of the supervision period both active and inactive, the sentence is stayed, and the Releasing Authority retains jurisdiction over the offender until the proceedings are resolved. The Releasing Authority may grant credit toward the sentence for time the offender serves incarcerated pending the violation proceedings.
- (2) These rules shall not preclude more than one extension or renewal of active parole or post-prison supervision, however an extension or renewal period may not exceed the maximum sentence.
- (3) After expiration of the sentence of an offender on parole or post-prison supervision, the Releasing Authority shall send written notice of the expiration to the offender and the supervisory authority.

(4) For offenders sentenced as sexually violent dangerous offenders pursuant to Chapter 163 (1999 OR Laws) for crimes committed on or after October 23, 1999, upon receipt of a court order resentencing the offender and terminating post-prison supervision, the Releasing Authority shall send written notice of the termination of post-prison supervision to the offender and supervisory authority.

Stat. Auth.: ORS 144.085, SB 1145 (1995 OL) & Ch. 163, 1999 OL

Stats. Implemented:

Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 4-2000, f. & cert. ef. 2-15-00