

9-29

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies\* are true, full and correct copies of the PERMANENT Rules(s) adopted on September 16, 2009 by the  
Date prior to or same as filing date.

Oregon Department of Transportation, Motor Carrier Transportation Division 740  
Agency and Division Administrative Rules Chapter Number

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to become effective upon filing Rulemaking Notice was published in the August 2009 Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

Adoption, amendment and repeal of rules governing motor carrier transportation of household goods  
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:** 740-035-0145, 740-035-0165 and 740-060-0045

**AMEND:** 740-035-0020, 740-035-0110, 740-035-0150, 740-035-0160, 740-060-0100 and 740-300-0035

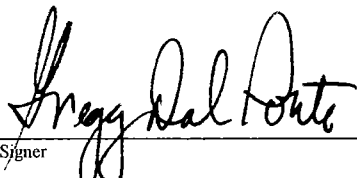
**REPEAL:** 740-060-0050

ORS 184.616, 184.619, None  
Stats. Auth. Other Authority

ORS  
Stats. Implemented

**RULE SUMMARY**

These rules describe permits and certificates of authority issued to motor carriers, applications for authority and operations of such motor carriers. HB 2817 (Chapter 433, Or. Laws 2009), revised entry standards required to obtain a certificate of authority to provide for-hire intrastate transportation of household goods. Previously, household goods applicants and applicants for authority to provide regular scheduled transportation of passengers were held to the same application standards. HB 2817 revised entry standards for applicants for household goods authority by removing the provision for existing authorized household goods carriers to protest an application and require the applicant to prove at a hearing that the proposed service meets a public need. The bill contained rulemaking authority to establish new requirements related to a criminal background check for an applicant for household goods authority and for employees of household goods motor carriers. In addition, the bill repealed regulation of persons providing a pack or load service, increased the penalty for unauthorized transportation of household goods from \$500 to \$1,000 per violation, and requires authorized household goods carriers to include their certificate number in internet advertising. These amendments implement Chapter 433, Or. Laws 2009, update existing application requirements and update a list of cities in which household goods transportation is exempt from economic regulation. A rule regarding pack or load registration was repealed because the bill removed the registration requirement.



Authorized Signer

Gregg Dal Ponte  
Printed Name

September 28, 2009  
Date

\* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

\*\* The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

MCTD 2-2009

#### **740-035-0020**

##### **Applicants for Certificates or Permits -- Capacity -- Status**

(1) All individual and partner applicants for for-hire carrier operating authority must have reached the age of majority as it is then defined by Oregon law.

(2) If the applicant is other than an individual or partnership and is not a corporation, limited liability partnership, or limited liability company registered with the Corporation Division, and has not previously satisfied this rule, there must be submitted with the application documentary evidence of applicant's legal status; copies of Articles of Incorporation or Certificate of Corporate Status, Articles of Organization, Order of Appointment or other such document as the Department may require.

(3) An applicant for household goods authority must provide a Business Identification Number if it has employees. A Business Identification Number is obtained from the Oregon Department of Revenue by completing and submitting a Combined Employer's Registration form (form DOR 150-211-055). The form is available from the Oregon Department of Revenue by calling 503-945-8091 EXT. 1;

(4) An applicant for household goods authority that intends to use temporary workers obtained from an employment agency must certify that it will maintain records for three years that describe the date(s) worked, names of temporary workers and name of the employment agency where the temporary workers were obtained.

Stat. Auth.: ORS 823.011, 825.125 & Chapter 433, Or. Laws 2009

Stats. Implemented: ORS 825.102, 825.104, 825.106, 825.110 & 825.240

#### **740-035-0110**

##### **Classification of Motor Carriers**

The issuance of certificates or permits to for-hire and private carriers will be classified as follows:

(1)(a) 1A Intrastate Carrier -- Property, except Household Goods;

(b) 1G Intrastate For-Hire Carrier -- Other than Local Cartage Household Goods;

(c) 1C Intrastate For-Hire Carrier -- Local Cartage Household Goods;

(d) 1B Intrastate For-Hire Carrier -- Local Cartage Household Goods under ORS 825.240;

(e) 1P Intrastate For-Hire, Regular Route Full-Service Scheduled Carrier -- Passengers; and

(f) 1R Intrastate, For-Hire, Other Than Regular Route Full-Service Scheduled Carrier -- Passengers.

(2)(a) 4A Interstate For-Hire Carrier -- Regulated Commodities; and

(b) 4E Interstate For-Hire Carrier -- Exempt Commodities.

(3)(a) 3A Oregon-Based Private Carrier; and

(b) 6A Foreign-Based Private Carrier.

(4) 7W Carriers Operating Under ORS 825.020.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.230 & 825.234

#### **740-035-0145**

##### **Application for New Permit Authority**

(1) Applications for new Class 1A intrastate permit authority must be accompanied by the following:

(a) A filing fee in the amount provided in ORS 825.180;

(b) An "Oregon Class 1A Permit Application," ODOT Form Number 735-9745, indicating the applicant's choice regarding optional regulations -- uniform cargo liability law, uniform cargo credit rule, uniform bill of lading rule, joint line rates, mileage guides, and commodity classification guide;

(c) An "Application For Motor Carrier Account," ODOT Form Number 735-9075;

(d) Certification of liability and cargo insurance coverage as required by OAR 740-040-0010, OAR 740-040-0020, and 740-040-0030; and

(e) Documentation of the form of business organization for the motor carrier that shows the business and any assumed business name is properly registered in the Business Registry maintained by the Oregon Secretary of State.

(2) Applications for new Class 1B intrastate permit authority to transport household goods in local cartage service under ORS 825.240 must be accompanied by the following:

(a) A filing fee in the amount provided in ORS 825.180;

(b) An "Application for Motor Carrier Account," ODOT Form Number 735-9075;

(c) Certification of liability and cargo insurance coverage as required by OAR 740-040-0010, OAR 740-040-0020, and 740-040-0030; and

(d) Documentation of the form of business organization for the motor carrier and that the business and any assumed business name is properly registered in the Business Registry maintained by the Oregon Secretary of State.

(3) Applications for new Class 1R intrastate permit authority to transport passengers for-hire in other than as a regular route, full-service, scheduled carrier, must be accompanied by the following:

(a) A filing fee in the amount provided in ORS 825.180;

(b) An "Application For An Oregon Intrastate Permit To Transport Persons (In Other than Regular Route, Full-Service Scheduled Transportation)," ODOT Form Number 735-9751;

(c) An "Application For Motor Carrier Account," ODOT Form Number 735-9075;

(d) Certification of liability insurance coverage as required by OAR 740-040-0010, and OAR 740-040-0020; and

(e) Documentation of the form of business organization for the motor carrier and that the business and any assumed business name is properly registered in the Business Registry maintained by the Oregon Secretary of State.

(4) Applications for new, Class 4A, 4E, 3A, 6A, or 7W permits must be accompanied by the following:

(a) An "Application For Motor Carrier Account," ODOT Form Number 735-9075.

(b) Verification of all applicable insurance coverage required by ORS Chapter 825.

(5) Permits are non-transferable.

Stat. Auth.: ORS 823.011 & 825.200

Stats. Imp.: ORS 825.102, 825.104, 825.106 & 825.108

#### **740-035-0150**

#### **Application for New Certificate of Authority, Extension or Transfer of Certificate, Intrastate**

(1) Applications for new intrastate authority and applications for extension of existing intrastate authority must be accompanied by the following:

(a) Exhibits describing the requested territory, if the application is for household goods or regular route full-service scheduled passenger authority;

- (b) Proposed Tariff of Rates and Operating or Time Schedule, if required by ORS Chapter 825, in the form prescribed by OAR 740-050-0400, 740-050-0410 and 740-050-0500;
  - (c) A filing fee in the amount provided in ORS 825.180;
  - (d) Certification that the applicant can or will provide proof of liability and cargo insurance coverage, or acceptable surety, as required by ORS 825.166, OAR 740-040-0010, OAR 740-040-0020, and 740-040-0030. No certificate will be issued until the Department has received proof that the required coverage is in effect;
  - (e) A current financial statement consisting of the following:
    - (A) A balance sheet showing the value of assets owned, the amount of liabilities owed and net worth; and
    - (B) An income statement for the most recently completed year immediately preceding the date of the application showing revenues, expenses and profits or losses; or
    - (C) A pro-forma, or projected, income statement for the first year of operations if a new business.
  - (f) The results of a criminal background check for each applicant for authority, except for an applicant seeking an extension of existing authority. For the purpose of criminal background checks, "applicant" has the meaning ascribed to it in ORS 825.135, and includes each sole proprietor, all partners of a partnership, all officers and majority stockholders of a corporation, and all members of a limited liability company. The Department may obtain, or require an applicant to provide, a fingerprint based criminal background check if the Department is not satisfied that the criminal background check provided with the application is current or accurate.
  - (g) Any other information or documents pertaining to the above requirements that the Department may deem appropriate.
  - (2) Authority granted for extension of geographic area shall not be broader in terms of types of services offered than that granted in the original application. An application to remove a service restriction from an existing authority must be made as an application for new authority.
  - (3) Authority sought by application for transfer must be limited to that authority contained in the certificate subject to transfer.
  - (4) An application for transfer of a certificate must be accompanied by the following:
    - (a) All items listed in subsections (1)(a) through (g) of this rule;
    - (b) A written consent of transfer signed by the certificate holder or the certificate holder's personal representative; and
    - (c) Evidence under ORS 825.129 of authority to transfer the certificate or license, if the individual certificate holder is deceased, and the operation is to be continued for purpose of transfer.
  - (5) When a certificate holder is granted additional authority by transfer or extension, the two authorities will be merged and a single authority will be issued.
  - (6) Any application, petition or other filing that contains false information, is incomplete, or does not comply with all the Department's rules and regulations may be rejected.
  - (7) No certificate holder shall hold more than one certificate authorizing the same service.
- Stat. Auth.: ORS 181.534, 823.011, 825.125 & Chapter 433, Or. Laws 2009  
Stats. Implemented: ORS 825.102, 825.110 & 825.240

#### **740-035-0160**

##### **Applications for Temporary Authority to Transport Passengers**

Any person requesting temporary operating authority to transport passengers in regular route full-service scheduled operations must comply with the following requirements, if applicable:

(1) Applications for temporary authority under ORS 825.115 must be accompanied by the following completed documents and must be on forms approved by the Department:

(a) Exhibits describing the type of service and requested routes if application is for regular route service;

(b) Written statements of request for service for the applicant's proposed operation. Statements should specifically explain why the applicant's service is needed, including a description of the deficiencies or absence of service provided by existing carriers;

(c) Proposed tariff of rates and operating or time schedule, if required by ORS Chapter 825, in the form prescribed by OAR 740-050-0400, 740-050-0410 and 740-050-0500;

(d) Proof of liability insurance and proof of cargo insurance if required by OAR 740-040-0030 coverage as required by OAR 740-040-0010, OAR 740-040-0020, and 740-040-0030.

(2) Temporary authority shall be issued only to applicants that have demonstrated a legitimate need, as determined after investigation by the Department's staff, for service.

(3) Applications which are approved shall be published in the monthly notice of applications filed with the Oregon Department of Transportation. Formal protests to the granting of the temporary authority can be filed by motor carriers having existing authority to provide the proposed service or by persons who have an application pending to provide the proposed service. The protest must be received by the Department within 15 days of the date of service of the notice.

(4) If a protest is received pursuant to section (3) of this rule, a public hearing shall be held within 90 days of issuance of the temporary authority certificate to determine if the authority should remain in effect.

Stat. Auth.: ORS 823.011, 825.115 & 825.125

Stats. Implemented: ORS 825.115

740-035-0170 *0165 10/6/09 JK*

#### **Applications for Authority to Transport Household Goods or Passengers in Regular Route Service**

The application of any person requesting operating authority to transport household goods or passengers in regular route, full-service scheduled operations will be evaluated by the department to determine if it complies with provisions of law set out in ORS 825.110, 825.115 and 825.135. The application will be approved if the department finds that it meets the requirements of OAR 740-035-150 (1)(a) - (g), and the applicant demonstrates to the department's satisfaction that it is fit, willing and able to perform the service proposed. For the purpose of this rule:

(1) "Fit" means that the applicant has not, during the five years preceding the application, been convicted of a crime punishable by imprisonment for a period of time in excess of one year under the law under which he or she was convicted, or a crime regardless of punishment involving:

(a) Theft;

(b) Burglary;

(c) Sexual conduct;

(d) Manufacture, sale or distribution of a controlled substance;

(e) Identity theft; or

(f) False statements.

(2) "Willing" means the applicant is prepared to provide all service sought in the application in compliance with ORS Chapter 825 and Department rules; and

(3) "Able" means:

(a) The applicant has or can provide adequate facilities, vehicles and equipment to perform the service proposed;

(b) The applicant certifies that these vehicles comply with all Oregon laws and rules covering vehicle safety and operations, and will be so maintained; and

(c) There is no significant evidence concerning the proposed service submitted by the applicant, by members of the public, or in the department's files that suggests a compelling reason to deny the application. Examples of evidence of a compelling reason to deny an application may include:

(A) A record of a pattern of violations of laws or rules administered by the Department.

(B) Two or more complaints from customers regarding applicant's unsatisfactory resolution of loss or damage claims.

(4) Application approval and disapproval decisions will be documented by issuance of notices of intent and final orders of the agency.

(a) Approval of applications will be documented by issuance of a final order approving the application for authority and issuance of a new or amended certificate of authority.

(b) Proposed disapproval of applications will be documented by issuance of a notice of intent to issue a final order disapproving application.

(A) The notice will cite the reason or reasons for disapproval and provide an opportunity for the applicant to request a contested case hearing. Contested case hearings will be conducted in accordance with ORS Chapter 183;

(B) Judicial review of final orders of the department issued after a contested case hearing may be obtained by filing a petition with the Oregon Court of Appeals within sixty (60) days of service of the final order under the provisions of ORS 183.482.

Stat. Auth.: ORS 823.011, 825.110, 825.125, Chapter 433, Or. Laws 2009

Stats. Imp.: ORS 183.482, 825.110, Chapter 433, Or. Laws 2009

#### **740-060-0045**

##### **Criminal Background Checks**

(1) Each authorized, intrastate, for-hire carrier of household goods must obtain a criminal background check for each employee or any agent representing the carrier whose duties may require contact with the public or entry into a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods. For the purpose of this rule:

(a) Authorized, intrastate, for-hire carriers of household goods subject to these requirements are referred to as "Subject Employers".

(b) Employees or agents whose duties are described in this rule are referred to as "Subject Individuals."

(2) The deadline to comply with this requirement by each Subject Employer is January 1, 2010 for Subject Individuals employed on or before the effective date of this rule, and prior to employment for all Subject Individuals hired after the effective date of this rule.

(3) Criminal Background Check means a public record of court actions regarding the Subject Individual.

(a) Subject Employers must require each Subject Individual, as a condition of employment, to sign a release authorizing the Subject Employer to obtain the criminal background check required by this rule.

(b) The Department may require Subject Employers to obtain additional criminal background information from law enforcement on Subject Individuals.

- (c) Criminal background checks will produce a list of offenses for which the Subject Employee has been convicted in a court of law, and the date of each conviction,
- (4) Subject Employers must certify in their annual report due April 1st of each year that they are in compliance with all rules of this department and provide the following information about criminal history check activities:
- (a) The number of Subject Individuals on whom criminal history checks were done during the preceding calendar year;
- (b) The number of criminal history checks resulting in evidence of a criminal history including:
- (A) Information about what was found without identifying the individual by name; and
- (B) The Subject Employer's decision as to whether the Subject Individual was hired, or continued in employment, and if so, an explanation as to why.
- (5) Subject Individuals may not perform duties which may require contact with the public or entry into a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods if they have been convicted within the five years preceding the criminal background check of any felony or a misdemeanor involving:
- (a) Theft;
- (b) Burglary;
- (c) Sexual conduct;
- (d) Manufacture, sale or distribution of a controlled substance;
- (e) Identity theft or
- (f) False statements.
- (6) Criminal background checks required by this rule must be retained for at least three years from the date obtained.

Stat. Auth.: Chapter 433, Or. Laws 2009

Stats. Imp.: Chapter 433, Or. Laws 2009

#### **740-060-0100**

#### **Cartage Areas Exempt From Economic Regulation**

Carriers engaged in the transportation of household goods moving wholly within the incorporated city limits of each of the cities as set out in Exhibit 1 are exempt from economic regulation, pursuant to ORS 825.240.

Stat. Auth.: ORS 823.011& 825.240

Stats. Implemented: ORS 825.240

#### Exhibit 1 LOCAL CARTAGE 740-060-0100

CITY	COUNTY
Adair Village	Benton
Adams	Umatilla
Adrian	Malheur
Amity	Yamhill
Antelope	Wasco
Arlington	Gilliam
Athena	Umatilla
Aumsville	Marion
Bandon	Coos

CITY	COUNTY
Bay City	Tillamook
Boardman	Morrow
Bonanza	Klamath
Brookings	Curry
Brownsville	Linn
Burns	Harney
Butte Falls	Jackson
Cannon Beach	Clatsop
Canyon City	Grant
Canyonville	Douglas
Cascade Locks	Hood River
Cave Junction	Josephine
Chiloquin	Klamath
Clatskanie	Columbia
Condon	Gilliam
Coquille	Coos
Cottage Grove	Lane
Cove	Union
Creswell	Lane
Culver	Jefferson
Dayville	Grant
Depoe Bay	Lincoln
Detroit	Marion
Donald	Marion
Drain	Douglas
Dufur	Wasco
Dunes City	Lane
Eagle Point	Jackson
Echo	Umatilla
Elgin	Union
Elkton	Douglas
Enterprise	Wallowa
Falls City	Polk
Florence	Lane
Fossil	Wheeler
Garibaldi	Tillamook
Gates	Linn, Marion
Gearhart	Clatsop
Glendale	Douglas
Gold Beach	Curry
Gold Hill	Jackson
Granite	Grant
Grass Valley	Sherman
Greenhorn	Baker, Grant
Haines	Baker



CITY	COUNTY
Halfway	Baker
Halsey	Linn
Harrisburg	Linn
Helix	Umatilla
Heppner	Morrow
Hines	Harney
Hood River	Hood River
Huntington	Baker
Idanha	Linn, Marion
Imbler	Union
Independence	Polk
Ione	Morrow
Irrigon	Morrow
Island City	Union
Jefferson	Marion
John Day	Grant
Jordan Valley	Malheur
Joseph	Wallowa
Junction City	Lane
Lakeside	Coos
Lakeview	Lake
La Pine	Deschutes
Lexington	Morrow
Lincoln City	Lincoln
Lonerock	Gilliam
Long Creek	Grant
Lostine	Wallowa
Lowell	Lane
Lyons	Linn
Madras	Jefferson
Manzanita	Tillamook
Malin	Klamath
Maupin	Wasco
Merrill	Klamath
Metolius	Jefferson
Mill City	Linn, Marion
Millersburg	Linn
Milton-Freewater	Umatilla
Mitchell	Wheeler
Monmouth	Polk
Monroe	Benton
Monument	Grant
Moro	Sherman
Mosier	Wasco
Mt. Vernon	Grant

CITY	COUNTY
Myrtle Creek	Douglas
Myrtle Point	Coos
Nehalem	Tillamook
North Powder	Union
Nyssa	Malheur
Oakland	Douglas
Oakridge	Lane
Paisley	Lake
Philomath	Benton
Pilot Rock	Umatilla
Port Orford	Curry
Powers	Coos
Prairie City	Grant
Prescott	Columbia
Rainier	Columbia
Reedsport	Douglas
Richland	Baker
Riddle	Douglas
Rockaway	Tillamook
Rogue River	Jackson
Rufus	Sherman
St. Paul	Marion
Scio	Linn
Scotts Mills	Marion
Seaside	Clatsop
Seneca	Grant
Shady Cove	Jackson
Shaniko	Wasco
Sheridan	Yamhill
Siletz	Lincoln
Sisters	Deschutes
Sodaville	Linn
Spray	Wheeler
Stanfield	Umatilla
Stayton	Marion
Sublimity	Marion
Summerville	Union
Sumpter	Baker
Sutherlin	Douglas
Sweet Home	Linn
Talent	Jackson
Tangent	Linn
Tillamook	Tillamook
Toledo	Lincoln
Turner	Marion

CITY	COUNTY
Ukiah	Umatilla
Umatilla	Umatilla
Union	Union
Unity	Baker
Vale	Malheur
Veneta	Lane
Vernonia	Columbia
Waldport	Lincoln
Wallowa	Wallowa
Wasco	Sherman
Waterloo	Linn
Westfir	Lane
Weston	Umatilla
Wheeler	Tillamook
Willamina	Polk, Yamhill
Winston	Douglas
Yachats	Lincoln
Yoncalla	Douglas

**740-300-0035**

**Providing Unauthorized Household Goods Transportation**

Except as otherwise ordered by the Department in a particular case, any person who violates ORS 825.100 by providing an unauthorized household goods moving service, is subject to civil monetary penalties in an amount of up to \$1,000 per violation, in addition to any other penalties authorized by law.

Stat. Auth.: ORS 825.950 & Chapter 433 OR laws 2009

Stats. Implemented: ORS 825.100 & 825.950