

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 Rule(s) adopted on April 22, 2011 by the
Oregon State Police, Office of State Fire Marshal 012 837
Date prior to or same as filing date

Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective June 29, 2011. Rulemaking Notice was published in the February 2011 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

The purpose is for updating standards, clarification of language, and housekeeping items.

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)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 837-012-0315 and 837-012-0330

REPEAL:

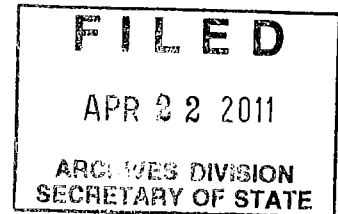
RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 476.030, 480.110 through 480.165

Other Auth.:

Stats. Implemented: ORS 480.110 through 480.165



RULE SUMMARY

837-012-0315 and 837-012-0330 updates are to adopt current editions of Oregon Fire Code, Building Code, clarification and housekeeping changes.


Authorized Signer

Pat Carroll
Printed name

4/22/2011
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 the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

OSFM 3-2011

OREGON ADMINISTRATIVE RULES

Agricultural Fireworks

837-012-0315

Definitions

- (1) "Agent" means an individual designated by the permit holder to pick up the agricultural fireworks authorized by the agricultural permit from an Oregon licensed wholesaler when the permit holder is unable to pick up the agricultural fireworks. The agent must have the agricultural permit (or a copy) issued by the State Fire Marshal in their possession at the time the agricultural fireworks are picked up from the wholesaler.
- (2) "Agricultural Fireworks" means:
 - (a) Fireworks with a cardboard/pasteboard-type tube up to 4" in length and 3/4 inch in diameter or a shotgun shell type container,
 - (b) Fireworks containing only pyrotechnic compositions, e g., black powder, flash powder, or smokeless powder, with an audible report containing up to 40 grains, or 2.592 grams, of explosive composition,
 - (c) Fireworks tested, classified and approved by the United States Department of Transportation,
 - (d) Fireworks designed and intended solely for use in:
 - (i) Controlling predatory animals allowed by ORS 480.124 or,
 - (ii) Controlling birds or animals which are or may injure forest or agricultural products or crops, allowed by ORS 480.122,
 - (e) Fireworks referred to as explosive pest control devices,
 - (f) Fireworks not including retail fireworks, public display fireworks, or exempt fireworks.
- (3) "Agricultural Permit" means the official written document issued by the Office of State Fire Marshal pursuant to ORS 480.122 and 480.124 and OAR 837-012-0305 through 837-012-0370 granting permission to a person to purchase and use agricultural fireworks.
- (4) "Agricultural Crop" means a plant or animal or plant or animal product that can be grown or harvested extensively for profit or subsistence.
- (5) "Agricultural Product" means a product that is naturally grown and brings a profit.
- (6) "Fire Protection District" means any district created under the laws of Oregon or the United States, including rural Fire Protection Districts and any federal, state or private forest patrol areas. Reference ORS 480.110(2).
- (7) "Fireworks" has the meaning provided in ORS 480.110(1) and 837-012-0315(2).
- (8) "Individual" means a real, actual person.
- (9) "Individual Member of the General Public" means any person who has not been issued a wholesale permit, a general, limited or special effects public display permit, a retail permit or an agricultural permit by the Office of State Fire Marshal.
- (10) "Local Fire Authority" means the local fire authority having jurisdiction over the agricultural fireworks use and storage sites.
- (11) "May" means a regulation of conduct and implies probability or permission.
- (12) "May not" means a prohibition of conduct.
- (13) "Must" means a mandatory requirement.
- (14) "Permit Application" means the form and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of an agricultural permit.
- (15) "Permit Holder" means the person referred to in ORS 480.122 who:

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- (a) Desires to purchase, maintain, use, and explode agricultural fireworks for the purpose of scaring away or repelling birds or animals which are or may be injurious or destructive to forest or agricultural products or crops,
 - (b) Has applied to the State Fire Marshal for an agricultural permit;
 - (c) The State Fire Marshal has issued an agricultural permit referred to in ORS 480.122;
 - (d) Is responsible for any activities conducted under the agricultural permit.
 - (16) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons and includes the state, state agencies, counties, municipal corporations, school districts and other public corporations.
 - (17) "Sell" means to transfer possession of property from one person to another person for consideration.
 - (18) "Wholesaler" means any person who sells or provides by any other means, or intends to sell or provide by any other means fireworks, retail fireworks, public display fireworks, or agricultural fireworks.
- Stat. Auth.: ORS 480.122 & 480.124
Stats. Implemented: ORS 480.110 - 480.165

837-012-0330

General

- (1) Agricultural permits are issued solely for the purpose of purchasing, possessing, and using agricultural fireworks allowed by ORS 480.122 and ORS 480.124.
- (2) Agricultural permit holders must notify the Office of State Fire Marshal, in writing, within 24 hours of the date of change, of:
 - (a) The agricultural permit holder's mailing address, telephone number,
 - (b) The storage address of the agricultural fireworks.
- (3) Change of the storage location of the agricultural fireworks is subject to prior written approval by the local fire authority and the Office of State Fire Marshal.
- (4) Agricultural permit holders must comply with all applicable federal, state and local laws, rules and regulations including, without limitation:
 - (a) ORS 480.110 through 480.165;
 - (b) OAR Chapter 837, Division 12;
 - (c) Oregon Fire Code, 2010 Edition; and
 - (d) Oregon Structural Specialty Code, 2010 Edition.
- (5) Agricultural permit holders must purchase agricultural fireworks only from wholesalers having the necessary and current permits required by ORS 480.110 to 480.160 and OAR 837-012-0500 through 837-012-0570.
- (6) Agricultural permit holders may request a duplicate copy of their agricultural permit by certifying to the Office of State Fire Marshal, in writing, their agricultural permit has been lost, stolen, or destroyed. Written requests must be signed and dated by the agricultural permit holder.
- (7) The issuance of an agricultural permit does not in any way constitute approval by the Office of State Fire Marshal of any agricultural fireworks purchased, sold, or provided pursuant to the agricultural permit.
- (8) An agricultural permit allows the permit holder to engage in the purchase, transportation, possession, storage and use of agricultural fireworks when those activities are otherwise in

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conformance with the applicable requirements of ORS 480.110 through 480.165, OAR Chapter 837, Division 12 and any other federal, state or local laws, rules or regulations pertaining to fireworks.

(9) An agricultural permit holder may not sell or provide agricultural fireworks to any other person.

(10) Any agricultural permit holder, other than an individual, is required by the State Fire Marshal to list the name, age, address, and phone number of one individual in a management position within their company or organization, on the permit application.

(11) Individuals firing agricultural fireworks shall be a minimum of 18 years of age.

(12) Only the agricultural permit holder, and any employees of the agricultural permit holder, may engage in activities authorized by the agricultural permit.

(13) Agricultural permits, and the rights conveyed by the agricultural permit, are not transferable.

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165