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DIVISION 10

PROCEDURAL RULES

740-010-0010

Agency Representation at Contested Case Hearings

(1) The Attorney General has given written consent as required by ORS 183.452 for an officer or employee of the Department of Transportation to appear on behalf of the agency in the following types of contested case hearings conducted by ODOT:

- (a) Assessment of civil monetary penalties for violation(s) of ORS Chapter 818, 823, 825 and 826 or related rules;
- (b) Suspension or cancellation of motor carrier operating authority;
- (c) Cancellation of registration or tax identification plates issued to motor carriers or farmers;
- (d) Surety bond increase;
- (e) Tariff docket; and
- (f) Reassessment cases involving weight-mile tax, commercial or prorate registration fees, road use assessment fees, or fuel taxes pursuant to ORS Chapter 818, 825 and 826 or related rules.

(2) The agency representative may present evidence, ask questions of witnesses and present factual arguments.

(3) The agency representative may not make legal argument on behalf of the agency.

(a) “Legal argument” includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) “Legal argument” does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(4) When an agency officer or employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 184.616, 814.619 & 823.011

Stats. Implemented: ORS 183.450, 823.031 & 823.033

Hist.: MCT 7-1997, f. & cert. ef. 9-18-97; MCTD 3-2014, f. & cert. ef. 9-22-14

740-010-0020

Emergency Suspension of Statutes — Delegation

The Director of the Oregon Department of Transportation authorizes the following line of succession to temporarily suspend operation of statutes involving motor carriers as described in ORS 823.012 in the event the Director is not available:

(1) Administrator of the Motor Carrier Transportation Division (MCTD);

(2) Manager of the Salem Motor Carrier Services Section of MCTD;

(3) Manager of Investigations/Safety/Federal Programs Section of MCTD;

(4) Manager of Field Motor Carrier Services Section of MCTD.

Stat. Auth.: ORS 823.011 & 823.012

Stat. Implemented: ORS 823.012

Hist.: MCTD 4-2005(Temp), f. & cert. ef. 8-18-05 thru 2-13-06; MCTD 7-2005, f. & cert. ef. 12-14-05

DIVISION 15

MOTOR CARRIER ELECTRONIC COMMERCE AND ONLINE TRANSACTIONS

740-015-0010

Purpose

Chapter 740, division 15 rules are adopted by MCTD in order to:

(1) Specify the procedures and requirements under which a motor carrier may, by electronic means, conduct business with MCTD that is normally conducted in person, by phone or by mail; and

(2) Promote the development and use of electronic transactions between MCTD and its customers while providing service that is efficient, secure, convenient and responsive.

Stat. Auth.: ORS 184.616, 184.619 & 802.012

Stats. Implemented: ORS 802.012

Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0020**Definitions**

For purposes of OAR chapter 740, division 15, the following definitions apply:

(1) “Agent” means a person or organization appointed or assigned by a Power of Attorney to conduct all business on behalf of a motor carrier.

(2) “Electronic record” means a record created, generated, sent, communicated, received or stored by electronic means through the use of computers.

(3) “Electronic signature” means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person or organization with the intent to sign the record.

(4) “Electronic transaction” means the use of computers to exchange an electronic record and, in those transactions where an ink on paper signature would also be required under Oregon law, an electronic signature, between a motor carrier and MCTD for the purposes of:

(a) Facilitating access to public records or public information;

(b) Purchasing or selling goods or services;

(c) Transferring funds;

(d) Facilitating the submission of an electronic record or electronic signature required or accepted by MCTD; or

(e) Creating records upon which MCTD or another person or organization will reasonably rely upon and may use for audit purposes, including but not limited to formal communications, notices, certifications and any other record that is issued under a signature.

(5) “Hardcopy” means a document printed on paper.

(6) “MCTD” means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(7) “Motor carrier” means a for-hire or private carrier, as defined in ORS 825.005, and except for the purposes of OAR 740-015-0040, includes any agent or person authorized by the motor carrier to conduct business on behalf of the motor carrier.

(8) “PIN” means a Personal Identification Number assigned by MCTD to a person or organization to establish a secure means of authenticating the identity of a motor carrier when conducting certain specified electronic transactions with MCTD.

(9) “PIN transaction” means an electronic transaction that requires the use of a PIN assigned by MCTD. A PIN transaction includes but is not limited to the submission of a document or information that is required by law or administrative rule to be “signed” or submitted to MCTD “in writing.”

(10) “Record” means a document or information that is customarily printed on paper, which contains information relating to and evidencing the transaction of business between a motor carrier and MCTD.

(11) “Trucking Online” means the MCTD Internet-based electronic transaction program found at: <http://www.odot.state.or.us/trucking/online/>.

(12) “Unique identifier” means a number, name, symbol or other identifier used singly or in combination by MCTD to uniquely identify a motor carrier, agent or vehicle to MCTD. For example, a driver license number, customer identification number, date of birth, place of birth, mother’s maiden name, vehicle license plate number, vehicle identification number, file number, etc.

Stat. Auth.: ORS 184.616, 184.619 & 802.012

Stat. Implemented: ORS 802.012

Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03; MCTD 4-2008, f. & cert. ef. 12-15-08

740-015-0030**General Provisions**

An electronic transaction conducted between MCTD and a motor carrier, including but not limited to the submission of documents or information to MCTD:

(1) Is voluntary and is made at the sole discretion of the motor carrier submitting the information;

(2) Must be conducted through the MCTD Trucking Online secure Web site at: <http://www.odot.state.or.us/trucking/online/>;

(3) Must be conducted in accordance with:

(a) The provisions of chapter 740, division 15 rules;

(b) All applicable laws and administrative rules; and

(c) Any instructions contained on MCTD’s Web site; and

(4) Has the same level of legal protection and effect that is given to a hardcopy transaction and may not be denied legal effect, validity or enforceability solely because it is conducted electronically.

Stat. Auth.: ORS 184.616, 184.619 & 802.012

Stats. Implemented: ORS 802.012

Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0040**Personal Identification Number (PIN); Unique Identifiers**

(1) MCTD may require the use of a PIN or other unique identifier for certain electronic transactions.

(2) When a PIN is required, a motor carrier may request a PIN by submitting a completed PIN Request Form (downloaded at <http://www.odot.state.or.us/trucking/online/>) to MCTD. A PIN Request Form must be signed by an owner, partner, corporate officer, or manager member of a limited liability company and submitted to MCTD by U.S. Mail or facsimile.

(3) Upon receipt of a PIN Request Form, MCTD will assign and e-mail the PIN to the e-mail address provided on the PIN Request Form. MCTD will send, by U.S. mail, an activation notice to the motor carrier’s address of record.

(4) MCTD reserves the right to terminate a PIN issued under this rule if:

(a) The PIN is not activated, or used at MCTD’s Web site, within a 12-month period;

(b) The Department determines that a transaction was conducted fraudulently; or

(c) The Department determines the PIN holder has not complied with the provisions of division 15 rules, Oregon Revised Statute (ORS) Chapter 825 or ORS 826, or any other Oregon law regarding electronic transactions.

(5) The motor carrier to whom a PIN is assigned is responsible for the security of the PIN and transactions conducted using the PIN.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 825.212

Stats. Implemented: ORS 802.012 & 825.212

Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03; MCTD 4-2008, f. & cert. ef. 12-15-08

740-015-0050**Certifications**

Pursuant to ORS 802.012(2), an electronic transaction conducted at MCTD’s Web site that includes the electronic submission of any information to MCTD necessary to comply with any requirement of the Oregon Vehicle Code, statute, or administrative rule shall:

(1) Constitute a certification, including but not limited to a certification as to the truth and accuracy of the document or information submitted in the electronic record; and

(2) Be considered received whether or not the information submitted is signed by the person or organization that submits the information.

Stat. Auth.: ORS 184.616, 184.619 & 802.012

Stats. Implemented: ORS 802.012

Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0060**Date and Time Information is Considered Submitted; Received**

(1) An electronic record submitted at MCTD’s Web site shall be deemed received by MCTD on the date and at the time that the record is received by MCTD’s Web server.

(2) An electronic record must be received by MCTD not later than midnight Pacific Time on the deadline for submitting the record, if applicable, to be considered received or submitted timely.

Stat. Auth.: ORS 184.616, 184.619 & 802.012

Stats. Implemented: ORS 802.012, 825.472 & 825.490

Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0070**Signature**

For any transaction that is required under Oregon law to be in writing and have a signature, an electronic signature shall have the same legal force and effect as if the person or organization had submitted the transaction in hardcopy with a handwritten signature in ink on paper.

Stat. Auth.: ORS 184.616, 184.619 & 802.012
Stats. Implemented: ORS 802.012
Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0080**Payment of Fees; Use of Credit Cards; Debit Cards**

(1) If an electronic transaction requires the payment of taxes or fees to MCTD, payment of those taxes or fees within the electronic transaction shall be:

- (a) Payment by credit card or debit card approved by MCTD as designated on MCTD's web site;
- (b) Payment through an Automated Clearing House; or
- (c) Charged to a motor carrier's account upon prior approval by MCTD.

(2) All payments shall be made in US funds.

(3) To pay required fees to MCTD by credit card or debit card within an electronic transaction, a motor carrier may be required to submit the following information to MCTD:

- (a) Credit cardholder or debit cardholder name and billing address, including city, state, and zip code;
- (b) Credit cardholder or debit cardholder phone number and e-mail address;
- (c) Credit card or debit card number;
- (d) Expiration date of the credit card or debit card;
- (e) Motor carrier name and address, including city, state (or province), and zip code; and
- (f) Motor carrier phone number and e-mail address.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 825.502
Stats. Implemented: ORS 825.490 & 825.502
Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0090**Electronic Records**

MCTD records pertaining to electronic transactions conducted at MCTD's Web site are subject to all of the requirements for processing and records maintenance as described in OAR 740, division 55.

Stat. Auth.: ORS 184.616, 184.619 & 802.012
Stats. Implemented: ORS 802.012 & 825.515
Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0100**Transactions Available**

MCTD will maintain a list of electronic transactions available and instructions on the MCTD Trucking Online Web site: <http://www.odot.state.or.us/trucking/online/>.

Stat. Auth.: ORS 184.616, 184.619 & 802.012
Stats. Implemented: ORS 802.012
Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

740-015-0110**Rental Agencies**

Rental agencies that conduct electronic transactions with MCTD pursuant to a written agreement, must comply with the provisions of division 15 rules.

Stat. Auth.: ORS 184.616, 184.619 & 802.012
Stats. Implemented: ORS 802.012
Hist.: MCTD 5-2003, f. & cert. ef. 10-24-03

DIVISION 20**DEPARTMENT WORKFORCE ETHICS****740-020-0010****Scope Defined**

(1) ORS 823.007(1) requires each employee of the department who performs a function concerning the economic regulation of

motor carriers to file with the department an employee statement of pecuniary interests in motor carriers. Division 20 rules establish when a statement is required, defines terms associated with the statement and describes the circumstances under which disciplinary action may occur for failure to comply with ORS 823.007(1).

(2) For the purposes of ORS 823.007(2), "a function concerning economic regulation of motor carriers" means any action or transaction that affects or potentially affects the financial status of a motor carrier. Such functions include, but may not be limited to:

- (a) Entry, including issuance of operating authority;
 - (b) Regulation and establishment of rates of household goods carriers described in ORS 825.202;
 - (c) Registration of commercial motor vehicles for highway use tax purposes;
 - (d) Registration or apportioned registration of commercial motor vehicles;
 - (e) Receiving, collecting and accounting for money received from motor carriers;
 - (f) Enforcement of motor carrier regulations, including audit, inspection and investigation for compliance with tax, safety and other regulations;
 - (g) Issuance of variance permits under ORS Chapter 818;
 - (h) Weighing commercial vehicles and enforcing highway size and weight standards;
 - (i) Authorization of farm registration under ORS Chapter 805;
 - (j) Processing insurance and surety deposit filings; and
 - (k) Processing refunds.
- Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 805.300, 818.200, 823.007, 825.100, 825.202 & 825.224
Hist.: MCTD 3-2003, f. & cert. ef. 7-17-03; MCTD 3-2006, f. & cert. ef. 4-28-06; MCTD 3-2016, f. & cert. ef. 9-26-16

740-020-0020**Employee Disciplinary Action — Failure to File a Statement Regarding Pecuniary Interest**

(1) The department may take disciplinary action that may include dismissal of a department employee who performs one or more of the functions described in OAR 740-020-0010(2) if the employee:

- (a) Is employed on or before September 1, 2003, and fails to file the statement required by ORS 823.007 before September 15, 2003;
- (b) Is employed after September 1, 2003, and fails to file the statement required by ORS 823.007 before the 15th day after the date of employment;

(c) Fails to file the supplementary statement required by ORS 823.007 before the 15th day following acquisition of a pecuniary interest; or

(d) Fails to cause divestiture of a pecuniary interest within the time specified in an order issued pursuant to ORS 823.007.

(2) Dismissal of an employee under section (1) of this rule is subject to either:

- (a) The procedure and appeal as provided in ORS 240.555 and 240.560 for unrepresented employees; or
 - (b) The labor agreement for represented employees.
- (3) An employee dismissed under section (2) is eligible for reemployment.

Stat. Authority: ORS 184.616, 184.619 & 823.007
Stats. Implemented: ORS 823.007
Hist.: MCTD 3-2003, f. & cert. ef. 7-17-03

DIVISION 30**DEFINITIONS; GENERAL PROVISIONS****740-030-0010****Applicability, References and Terminology**

(1) No rule listed in Divisions 30 through 60 and 105 through 115 is intended to expand the authority granted in existing certificates.

(2) When grants of operating territory are expressed in terms of miles for for-hire carriers of household goods, air miles will be employed as the measure unless otherwise described or specified. This shall apply to any lateral distances from designated highways and named points.

(3) "Air miles" express distance as statute miles of 5,280 feet, measured in a straight line without regard to terrain features or differences in elevation on maps designated by the Department of Transportation.

(4) When "air miles" are designated in an application for for-hire household goods authority, a known ascertainable reference point must be designated from which the air mile radius or distance should be computed.

(5) Some household goods carrier certificates of authority, issued prior to the effective date of this rule, express an authorized territory in terms of "road miles." If any certificate holder claims a particular highway or roadway as a measure to place his operations within the scope of such defined authority, the burden of proof is upon said holder to show that such highway or roadway is practical and operational for use in transporting the affected traffic and the certificate holder normally and regularly uses such highway or roadway to transport the affected traffic.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 825.100, 825.110, 825.202 & 825.224
Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-031-0005; PUC 15-1984, f. & ef. 8-8-84, Order No. 84-602; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-061-0005; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 3-2016, f. & cert. ef. 9-26-16

740-030-0020**Communications, Business Names and Carrier Address**

(1) All carriers must immediately report any change in principal business address, legal status or business name to the Department.

(2) All motor carrier operations must be conducted in the name in which the certificate or permit is issued or the duly assumed business name of the carrier, and all carriers are required to use such name in all documents relating to their operations and in all correspondence with the Department's office. This rule does not preclude the use of separate name for operations conducted as a division so long as the name in which the certificate or permit or the duly assumed business name is also shown.

Stat. Auth.: ORS 823.011 & 825.232
Stats. Implemented: ORS 825.102 - 825.117
Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-31-010; PUC 16-1983, f. & ef. 12-28-83, Order No. 83-863; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-61-010; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 8-1997, f. & cert. ef. 11-17-97

740-030-0030**Special Operations**

(1) "Special Operations" is an irregular route service for transportation of passengers to special events or for special purposes where tickets are sold on an individual basis at various points in route.

(2) "Special Event" or "for special purposes" refers to a particular public happening which has a definite beginning and end, or to a one of a kind special purpose trip. Although the event or trip may be scheduled in advance, and occur intermittently, it does not occur on an extended everyday basis, and the transportation is not conducted for the sole purpose of moving passengers from one point to another.

Stat. Auth.: ORS 823 & 825
Stats. Implemented: ORS 825.202
Hist.: PUC 14-1983(Temp), f. & ef. 11-16-83, Order No. 83-726; PUC 7-1984, f. & ef. 3-27-84, Order No. 84-232; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0015

740-030-0045**Annual Report for Operations Exempt Under ORS 825.017**

(1) Any owner or operator of a motor vehicle exempt from the provisions of ORS Chapter 825 by 825.017 must file an annual report form number 735-9948. The annual report will cover operations for the prior calendar year. The report must be filed no later than the 31st day of March following the year in which the operations occurred.

(2) The owner or operator's report must:

(a) Identify the specific exemption of ORS 825.017;

(b) List the mileage for each exempt vehicle; and

(c) Include the registered weight class for each exempt vehicle.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.018

Stats. Implemented: ORS 825.017 & 825.018

Hist.: MCTD 4-2014, f. & cert. ef. 9-22-14

DIVISION 35**CERTIFICATES, PERMITS,
LICENSES AND DOCUMENTS****740-035-0005****Definitions**

For purposes of OAR chapter 740, the following definitions apply:

(1) An "Established Account" results when the department has received and approved an application for a motor carrier account or farm certification containing sufficient information to identify the legal entity of the motor carrier.

(2) "Legal Entity" means an association, corporation, partnership, proprietorship, trust, individual or other entity that has a separate existence for tax or other purposes of accountability under law. A legal entity has standing to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions.

(3) A "Temporary Account" results when the department has issued an account number for the purpose of issuing temporary passes but has not received or approved an application for a motor carrier account or a farm certification.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 823.027

Hist.: MCTD 7-2012, f. & cert. ef. 8-17-12

740-035-0010**Applications for Authority or Change of Authority**

(1) All applications for a certificate or permit or for the extension, contraction, abandonment or other change in operating authority or for adding vehicles to certificate or permit must be made on forms approved by the Department.

(2) Additional filing requirements and attachments to or in support of applications are specified in OAR 740-035-0150.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 825.100, 825.102, 825.110 & 825.202
Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-032-0005; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0005; MCTD 3-2016, f. & cert. ef. 9-26-16

740-035-0015**Application for Motor Carrier Account**

(1) A motor carrier operating under a temporary account will be required to apply and be approved for an established account, if any one vehicle in the fleet exceeds 5 temporary passes or if the entire account exceeds 35 temporary passes within one twelve month period.

(2) Applications for motor carrier accounts or other supporting documents must provide the department with sufficient information to identify the legal entity of the motor carrier and must be made on forms furnished by the Department. A motor carrier may have only one account per legal entity.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 823.027, 823.029 & 825.470

Hist.: MCTD 7-2012, f. & cert. ef. 8-17-12

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, Ch. 433, OL 2009

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

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-032-0010; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0010; MCTD 2-2009, f. & cert. ef. 9-29-09

740-035-0030

Misclassification of Application — Effort

(1) If upon investigation it appears that an applicant proposes to operate in a class different from that applied for, applicant will be required to amend his application accordingly before the matter will be assigned for hearing, or if no hearing is required, then before the application is granted.

(2) If upon hearing the evidence indicates that applicant is entitled to receive a lesser authority than applied for, such lesser authority will be granted.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.125

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 111, f. & ef. 4-20-62, Order No. 38367; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-032-0015; PUC 12-1981, f. & ef. 12-16-81, Order No. 81-880; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0015

740-035-0040

Effect of Pending Investigation or Litigation on Applications for Authority

Unless the Department otherwise orders, no application for certificate or permit, for extension, transfer or modification thereof will be processed if:

(1) The applicant, certificate or permit is under formal investigation, other than a pending safety investigation, upon complaint filed with or by the Department; or

(2) The certificate, permit, or application is the subject of pending court litigation.

Stat. Auth.: ORS 823.011 & 825.125

Stats. Implemented: ORS 825.102 - 825.110 & 825.240

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; PUC 181, f. 12-30-77, ef. 1-15-78, Order No. 77-896; Renumbered from 860-032-0020; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0020; MCT 8-1997, f. & cert. ef. 11-17-97

740-035-0050

Holding Out as For-Hire Carrier

No person shall hold himself or herself out to the public as willing to transport persons or property for hire by motor vehicle without holding operating authority from the Department.

Stat. Auth.: ORS 823.011

Stats. Implemented: ORS 825.100

Hist.: PUC 4-79, f. & ef. 9-21-79, Order No. 79-641; Renumbered from 860-032-0025; PUC 19-1984, f. & ef. 9-10-84, Order No. 84-713; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0025; MCT 8-1997, f. & cert. ef. 11-17-97

740-035-0100

Issuance of Certificate or Permit — Start of Operations

(1) A copy of all certificates or permits will be retained by the Department and the original supplied the carrier. Such original must be retained by the carrier and be made available for inspection by authorized persons at all reasonable times.

(2) Unless the time therefore is extended by the Department's order, operations must be commenced not later than thirty days following the issuance of the certificate.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.102 - 825.110

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-032-0055; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0055

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

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; PUC 181, f. 12-30-77, ef. 1-15-78, Order No. 77-896; PUC 2-80, f. & ef. 3-27-80, Order No. 80-179; PUC 3-80, Part 1, f. & ef. 6-30-80, Order No. 79-805; PUC 4-1980, f. & ef. 10-13-80, Order No. 80-759; Renumbered from 860-032-0060; PUC 12-1981, f. & ef. 12-16-81, Order No. 81-880; PUC 1-1984, f. & ef. 2-9-84, Order No. 84-076; PUC 15-1984, f. & ef. 8-8-84, Order No. 84-602; PUC 8-1993, f. & cert. ef. 3-19-93, Order No. 93-286; PUC 16-1994(Temp), f. 12-28-94, cert. ef. 1-1-95, Order No. 94-2077; PUC 5-1995, f. & cert. ef. 6-23-95, Order No. 95-561; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0060; MCT 8-1997, f. & cert. ef. 11-17-97; MCTD 2-2009, f. & cert. ef. 9-29-09

740-035-0140

Vehicle Additions, Deletions or Alterations

Motor carriers must immediately apply for amendment of vehicle registration listing on forms furnished by the Department when:

(1) Any motor vehicle has been reconstructed; or

(2) Any motor vehicle has been materially altered, modified, or added to in body or seating arrangement or carrying capacity; or

(3) The declared combined weight of the motor vehicle is

increased or decreased; or

(4) Any motor vehicle has been withdrawn from service.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.450

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62,

ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No.

42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 152, f. & ef. 12-

22-69, Order No. 46489; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507;

Renumbered from 860-032-0065; PUC 7-1993, f. & cert. ef. 3-19-93, Order No.

93-285; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0065

740-035-0142

Solo Vehicle Weight

(1) Solo vehicle, for the purposes of ORS 825.005(4) and 825.474, means any motor vehicle that is self-propelled or designed for self-propulsion. It includes, but is not limited to: A truck tractor, a dromedary truck-tractor, a motor truck, a bus, a fixed load power unit, or any motor vehicle used in furtherance of a commercial business.

(2) The declared weight for a solo motor vehicle that is designed and used exclusively to pull trailers and cannot carry a load on the motor vehicle itself is determined by subtracting the maximum weight the trailer can legally carry from the declared weight of the first combination weight for the vehicle.

(3) The declared weight for a solo motor vehicle that is designed and used to haul a load, or is a fixed load power unit, and does not operate in combination with a trailer is the highest weight at which the motor carrier declares the vehicle will be operated.

(4) The declared weight for a solo motor vehicle that is designed and used to haul a load or is a fixed load power unit, and operates in combination with a trailer is determined by subtracting the maximum weight the trailer can legally carry from the declared weight of the first combination weight for the vehicle, or the highest weight at which the motor carrier declares the vehicle will be operated, whichever is greater.

(5) When the declared weight of a solo vehicle is 26,000 pounds or less, all solo operations are subject to use fuel tax unless the actual weight is over 26,000 pounds.

(6) If the weight of a solo vehicle exceeds 26,000 pounds, all solo operations during the reporting period are subject to ORS 825.474.

Stat. Auth.: ORS 823.011 & 825.450

Stats. Implemented: ORS 825.005 & 825.474

Hist.: MCTD 2-2010, f. & cert. ef. 7-30-10

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 735-974;

(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, 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, 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 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 1P intrastate permit authority to transport passengers, for-hire in regular route, full-service, scheduled transportation, must be accompanied by the following:

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

(b) An “Application For A 1P Permit Oregon Intrastate Permit To Transport Passengers In Regular Route, Full-Service Scheduled Transportation” ODOT Form Number 735-9057p;

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

(5) 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.

(6) Permits are non-transferable.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.100, 825.102, 825.104, 825.106, 825.108 & 825.202

Hist.: MCTD 2-2009, f. & cert. ef. 9-29-09; MCTD 3-2016, f. & cert. ef. 9-26-16

740-035-0150

Application for New 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 authority;

(b) Proposed Tariff of Rates 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, 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 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.102, 825.110, 825.202, 825.224 & 825.240

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; PUC 181, f. 12-30-77, ef. 1-15-78, Order No. 77-896; Renumbered from 860-032-0070; PUC 12-1981, f. & ef. 12-16-81, Order No. 81-880; PUC 7-1983(Temp), f. & ef. 7-11-83, Order No. 83-389; PUC 15-1984, f. & ef. 8-8-84, Order No. 84-602; PUC 1-1986, f. & ef. 2-5-86, Order No. 86-100; PUC 14-1986, f. & ef. 10-31-86, Order No. 86-1116; PUC 1-1991, f. & cert. ef. 1-11-91 (and corrected 1-31-91), Order No. 91-20; PUC 14-1992, f. & cert. ef. 11-9-92, Order No. 92-1560; MCT 2-1996, f. & cert. ef. 2-16-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0070; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 8-1997, f. & cert. ef. 11-17-97; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTD 2-2009, f. & cert. ef. 9-29-09; MCTD 3-2016, f. & cert. ef. 9-26-16

740-035-0165

Applications for Authority to Transport Household Goods

The application of any person requesting operating authority to transport household goods 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 740-035-0150(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 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 183.482, 825.110, 825.115, 825.135, 825.202, 285.224 & Ch. 433, OL 2009

Hist.: MCTD 2-2009, f. & cert. ef. 9-29-09; MCTD 3-2016, f. & cert. ef. 9-26-16

740-035-0200

Motor Carrier Education Program

The Motor Carrier Education Program provides motor carriers with basic information required to conduct motor carrier operations in Oregon. In addition to the provisions of ORS 825.402, the following apply to the Motor Carrier Education Program:

(1) As used in ORS 825.402, "Domiciled in Oregon" means a motor carrier has established its principal place of business, as indicated on the Application for Motor Carrier Permit (Form 735-9075, revised 6/02), in Oregon; and

(2) As used in ORS 825.402 and OAR 740-035-0200 through 740-035-0260, "Participate in the program" means that a person having a substantial interest or control, directly or indirectly, in the motor carrier operations has reviewed the basic information outlining the requirements to conduct motor carrier operations in Oregon.

Stat. Auth.: ORS 823.011 & 825.402

Stats. Implemented: ORS 825.400 & 825.402

Hist.: PUC 1-1991, f. & cert. ef. 1-11-91, Order No. 91-20; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0090; MCT 5-1996, f. & cert. ef. 9-17-96; MCTB 5-2002, f. & cert. ef. 11-18-02; MCTD 3-2005, f. & cert. ef. 7-22-05

740-035-0250

Penalty for Failure to Participate

Failure to participate in the program as required by ORS 825.402 subjects a motor carrier to citation action as provided in 810.530 and civil action as provided in 825.950. For the purposes of 810.530, "requirements for attendance" has the same meaning as "participate in the program" described in 825.402 and OAR 740-035-0200.

Stat. Auth.: ORS 183, 469, 823, 824 & 825

Stats. Implemented: ORS 825.137

Hist.: PUC 1-1991, f. & cert. ef. 1-11-91, Order No. 91-20; PUC 9-1994, f. & cert. ef. 4-21-94, Order No. 94-637; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0100; MCTB 5-2002, f. & cert. ef. 11-18-02

740-035-0260

Motor Carrier Education Curriculum

The Department will provide motor carriers with the information needed to meet the participation requirements. The Department will provide educational information including, but not limited to:

(1) Driver Qualifications;

(2) Vehicle Inspection and Maintenance Requirements;

(3) Motor Carrier Safety Regulations;

(4) Weight Mile Tax/Reporting Requirements;

(5) Insurance Filings;

(6) Authority Suspensions;

(7) Permissible Size and Weight Limits;

(8) Overdimensional Permits and How to Obtain Them; and

(9) Appropriate Agency Contact for Assistance.

Stat. Auth.: ORS 183, 469, 823, 824 & 825

Stats. Implemented: ORS 825.400

Hist.: PUC 1-1991, f. & cert. ef. 1-11-91, Order No. 91-20; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0102; MCTB 5-2002, f. & cert. ef. 11-18-02

740-035-0400

Commissions Paid to Agents

Motor carriers are forbidden to pay commissions or grant consideration to their agents upon charges for motor carrier services performed for such agents.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.224

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-036-0150; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0150

DIVISION 40

INSURANCE AND BONDS

740-040-0010

Insurance

(1) Insurance required in compliance with ORS 825.160 or 825.166 must provide for payment of any final judgment recovered against the carrier for bodily injury to or the death of any person or for damage to property resulting from negligence in the operation, maintenance, ownership or use of the vehicle involved, except injury to or death of the name insured's employees while engaged in the course of their employment, and loss of or damage to property owned or operated by or in the care, custody or control of the name insured, and property transported by the named insured, designated as cargo, and to any obligation for which the named insured may be held liable under any workers' compensation law.

(2) The liability of the insurer as to each vehicle must be a continuing one notwithstanding any recovery under the policy.

(3) Prior to operating, carriers or persons engaged solely in intrastate commerce shall file an insurance policy of public liability and property damage or a signed certificate of insurance signed by the carrier's insurer with the Department. Such policy of insurance or certificate of insurance signed by the carrier's insurer shall be effective and retained on file for the duration of the time operating.

(4) Carriers formerly engaged in interstate commerce that change operations and engage solely in intrastate commerce shall cause to be filed within 30 days of the date the Department is notified of such change, an insurance policy of public liability and property damage or a signed certificate of insurance signed by the carrier's insurer with the Department. Such policy of insurance or certificate of insurance signed by the carrier's insurer shall show that the carrier's insurance was effective at the time of the change in operations and remained effective for the duration of the time operated. Failure to file within 30 days of notification from the Department is cause for revocation or suspension of the carrier's certificate or permit.

(5) If for any reason the evidence of insurance becomes insufficient, the certificate or permit of the concerned carrier shall immediately, and by operation hereof, be suspended.

Stat. Auth.: ORS 823.011 & 825.164

Stats. Implemented: ORS 825.160 & 825.166

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 152, f. & ef. 12-22-69, Order No. 46489; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; PUC 181, f. 12-30-77, ef. 1-15-78, Order No. 77-896; PUC 3-30, Part 1, f. & ef. 6-30-80, Order No. 79-805; Renumbered from 860-033-0005; PUC 12-1981, f.

& ef. 12-16-81, Order 81-880; PUC 19-1985, f. & ef. 11-1-85, Order No. 85-1030; PUC 14-1986, f. & ef. 10-31-86, Order No. 86-1116; PUC 16-1994(Temp), f. 12-28-94, cert. ef. 1-1-95, Order No. 94-2077; PUC 5-1995, f. & cert. ef. 6-23-95, Order No. 95-561; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-063-0005; MCT 9-1997, f. & cert. ef. 12-22-97; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTD 4-2010, f. & cert. ef. 10-25-10

740-040-0020**Liability Insurance**

Carriers who are required to file liability insurance shall file evidence of such insurance for a minimum single limit of \$750,000 per accident.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.160

Hist.: PUC 3-30, Part 1, f. & ef. 6-30-80, Order No. 79-805; Renumbered from 860-033-0008; PUC 8-1985, f. & ef. 6-10-85, Order No. 85-499; PUC 7-1992, f. 2-26-92, cert. ef. 3-1-92, Order No. 91-1141; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-063-0008

740-040-0030**Cargo Insurance**

(1) All Class 1A, 1G, 1B, and 1C for-hire carriers are required under ORS 825.162 to have cargo insurance. A policy or a certificate of insurance in the minimum amount of \$10,000, signed by the carrier's insurer, must be filed with the Department of Transportation.

(2) The Department may waive the requirement for cargo insurance in circumstances where a carrier makes a sufficient showing that its service is limited to commodities not subject to material damage or loss through ordinary transportation hazards. Commodities not subject to material damage or loss through ordinary transportation hazards include, but shall not be limited to: Sand, gravel, rock, dirt, debris, cinders, wet ready-mix concrete, metallic ores and concentrates; logs, poles, piling, and cut trees; cordwood, wood chips, lumber, shingles, veneer, plywood, particle board, wallboard, and siding; unprocessed agricultural commodities; fish scrap; newspapers; garbage and waste material for recycling; compressed motor vehicle bodies; and water.

Stat. Auth.: ORS 823.011 & 825.162

Stats. Implemented: ORS 825.162

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54, Order No. 33203; PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66, Order No. 42332; PUC 148, f. 7-29-68, ef. 9-1-68, Order No. 44783; PUC 156, f. 8-6-73, ef. 8-15-73, Order No. 73-507; Renumbered from 860-033-0010; PUC 12-1981, f. & ef. 12-16-81, Order No. 81-880; PUC 1-1984, f. & ef. 2-9-84, Order No. 84-076; PUC 19-1985, f. & ef. 11-1-85, Order No. 85-1030; PUC 8-1987(Temp), f. & ef. 10-2-87, Order No. 87-989; PUC 1-1988, f. & cert. ef. 1-14-88, Order No. 88-023; PUC 16-1994(Temp), f. 12-28-94, cert. ef. 1-1-95, Order No. 94-2077; PUC 5-1995, f. & cert. ef. 6-23-95, Order No. 95-561; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-063-0010; MCT 3-1996, f. & cert. ef. 3-14-96

740-040-0040**Sanctions for Insurance Cancellation**

If a carrier's policy required pursuant to ORS 825.160 or 825.162 is cancelled, the motor vehicles assigned to that carrier shall not be operated on the highways of this state and the carrier's certificate or permit may be suspended by the Department.

Stat. Auth.: ORS 823.011, 825.160 & 825.164

Stats. Implemented: ORS 825.164

Hist.: PUC 19-1985, f. & ef. 11-1-85, Order No. 85-1030; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-063-0012; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02

740-040-0060**Irrevocable Letters of Credit**

(1) In lieu of filing liability insurance or cargo insurance, a motor carrier may file with the Department an irrevocable letter of credit.

(2) Any irrevocable letter of credit must meet the definition and requirements of ORS 75.1010 through 75.1170 and must:

- (a) State the name and address of the issuing bank;
- (b) State the name of the motor carrier;
- (c) List the account number or numbers upon which draws may be made;
- (d) Identify the Department as beneficiary of the letter;
- (e) Set forth the amount of credit of the letter;

- (f) Allow for partial draws;
- (g) State the effective and termination dates of the letter;
- (h) Be signed by a person with authority to bind the issuing bank; and

(i) Contain a provision that the issuing bank agrees to provide the Department written notice of at least 30 days before the issuing bank cancels the letter.

(3) The minimum amount of credit in an irrevocable letter of credit shall be as follows:

(a) For liability insurance, the minimum limit required by OAR 740-040-0020;

(b) For cargo insurance, the minimum limit required by OAR 740-040-0030.

(4) A claimant requesting that the Department make a payment under an irrevocable letter of credit shall provide:

(a) A true copy of an agreement showing that the motor carrier has consented to settle for the amount of the payment; or

(b) A true copy of a judgment showing that a court is requiring the motor carrier to tender the amount of the payment and a statement certifying:

(A) That the judgment has not been appealed and that the time for appeal has run; or

(B) That the motor carrier has exhausted its appeal rights and that such appeal or appeals were unsuccessful.

(5) If the Department's authorization of payment will cause the amount of credit in an irrevocable letter of credit to fall below the applicable minimum of section (3) of this rule, the Department shall, prior to such authorization, send the motor carrier a written notice requiring the motor carrier to increase the amount of credit so that, after payment, the amount of credit will at least equal the applicable minimum of section (3) of this rule.

(6) On or before the tenth day following the date of the written notice required by section (5) of this rule, the motor carrier shall increase the amount of credit in its irrevocable letter of credit so that, after payment, the amount of credit will at least equal the applicable minimum of section (3) of this rule.

(7) A motor carrier that fails to comply with any requirement of this rule is subject to suspension of its authority.

Stat. Auth.: ORS 823.011, 825.160 & 825.164

Stats. Implemented: ORS 825.166

Hist.: PUC 9-1992, f. & cert. ef. 6-4-92, Order No. 92-791; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-063-0017; MCT 8-1997, f. & cert. ef. 11-17-97; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTD 4-2010, f. & cert. ef. 10-25-10

740-040-0070**Deposits to Secure Payment of Fees, Taxes, Charges, Penalties and Interest**

(1) The Department requires each motor carrier that does not qualify for a deposit waiver under section (4) of this rule to deposit with the Department an amount of money necessary to insure the collection of fees, taxes, charges, penalties and interest.

(2) For purposes of this rule:

(a) "New carrier" means any motor carrier that has not:

(A) Previously received a permit or certificate of authority from the Department; or

(B) Operated in Oregon for 12 months or more in the most recent 36 month period after receiving a permit or certificate of authority from the Department.

(b) "Established carrier" means any motor carrier that has operated in Oregon for 12 months or more in the most recent 36-month period;

(c) If an applicant, carrier, or employee of the applicant or carrier has had substantial interest or control, directly or indirectly, in or over the operations conducted in Oregon under any carrier's authority, the Department may treat the applicant or carrier as an established carrier.

(3) The security deposit schedule is as follows:

(a) Except as described in subsections (c) and (d) of this section, for new carriers:

(A) One vehicle — \$2,000;

(B) Plus \$375 for each additional vehicle from 2-5 vehicles;

- (C) Plus \$250 for each additional vehicle from 6-10 vehicles;
- (D) Plus \$125 for each additional vehicle above 10 vehicles;
- (E) Maximum deposit required — \$10,000.
- (b) Except as described in subsections (c) and (d) of this section, for established carriers required to have a deposit, the deposit amount will be an amount determined by a review of Department records or as specified in paragraph (A) to (E) of this subsection, whichever is greater:
 - (A) One vehicle — \$2,000;
 - (B) Plus \$750 for each additional vehicle from 2-5 vehicles;
 - (C) Plus \$500 for each additional vehicle from 6-10 vehicles;
 - (D) Plus \$250 for each additional vehicle from 10 vehicles;
 - (E) Maximum deposit required -- \$20,000.
- (c) For private carriers, carriers that conduct operations under ORS 825.020 or farmers issued permits under 825.024 who operate motor vehicles weighing under 55,000 pounds that use gasoline on which gasoline tax provided by law has been paid to the State of Oregon:
 - (A) One vehicle — \$500;
 - (B) Plus \$150 for each additional vehicle;
 - (C) Maximum deposit required — \$10,000.
- (d) For private carriers, carriers that conduct operations under ORS 825.020 or farmers issued permits under 825.024 who operate motor vehicles weighing under 55,000 pounds that use any fuel other than gasoline or use gasoline on which gasoline tax provided by law has not been paid to the State of Oregon:
 - (A) One vehicle — \$750;
 - (B) Plus \$225 for each additional vehicle;
 - (C) Maximum deposit required — \$15,000.
- (4) The Department may waive the deposit required of:
 - (a) A new carrier with a Dun & Bradstreet rating of 3A2 or higher;
 - (b) An established carrier if the Department finds that in the previous 12 months the motor carrier has been required to file weight-mile tax reports for each of the reporting periods (monthly, quarterly, or annually) and has had no:
 - (A) Suspensions with the Department;
 - (B) Revocation of IFTA tax license;
 - (C) Weight-mile tax reports filed late;
 - (D) Fees not timely paid;
 - (E) More than two estimated weight-mile tax reports filed;
 - (F) More than one estimated weight-mile tax report filed without an actual report filed within a 30-day period;
 - (G) Non-sufficient fund check(s) or returned Automated Clearing House (ACH) transaction(s); and
 - (H) Outstanding billings for over-dimensional variance permits.
- (5) Notwithstanding subsection (4) of this rule, a carrier may not qualify for a waiver of the deposit if within the previous 36 months the carrier has had:
 - (a) A weight-mile tax audit resulting in an assessment that exceeds by more than 15% the amount of the weight-mile taxes and fees reported and paid during the audit period; or
 - (b) An outstanding balance with the Department's Collection Unit for fees owed to the Department under ORS chapter 825 and/or ORS 818.225.
- (6) The deposit required of a motor carrier may be increased, or a previously waived deposit may be required of a motor carrier, in accordance with subsection (3)(b) of this rule, if Department records indicate that:
 - (a) In the previous 12 months the motor carrier has had:
 - (A) Any suspensions with the Department;
 - (B) Revocation of IFTA tax license;
 - (C) More than one weight-mile tax report filed late;
 - (D) Fees not timely paid;
 - (E) More than two estimated weight-mile tax reports filed;
 - (F) More than one estimated weight-mile tax report filed without an actual report filed within 30 days;
 - (G) Any non-sufficient fund check(s) or returned ACH transaction(s) with the Department; or
 - (H) Delinquent billings for over-dimensional variance permits, including associated road use assessment fees;

(I) Delinquent reports required for operations subject to ORS 818.225; or

(b) In the previous 36 months, the carrier has had a weight-mile tax audit resulting in an assessment that exceeds by more than 15% the amount of the weight-mile taxes and fees reported and paid during the audit period; or

(c) The carrier has had an outstanding balance with the Department's Collection Unit for fees owed to the Department under ORS 818.225 and/or ORS chapter 825.

(7) The Department may delay granting a waiver of the security deposit if the carrier is being audited.

(8) If a carrier's cash deposit is applied to an outstanding balance or a claim is filed against a carrier's highway use tax bond filed pursuant to ORS 825.506, the authority under the certificate or permit shall be suspended until the cash deposit has been replaced or the full bond requirements have again been met.

(9) Acceptable forms of deposit. Any motor carrier may deposit:

(a) Cash;

(b) A bond in the form prescribed and furnished by the Department of Transportation;

(c) Bonds, negotiable by delivery, of the State of Oregon, school districts therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both principal and interest, equal in value to the amount of the requested deposit; or

(d) Bank or savings and loan savings certificates.

(10) The Department may require a cash deposit if a motor carrier operates on temporary passes. A portion of the total required deposit may be collected incrementally on each successive temporary pass purchased. The required deposit will be in the amount of \$100 or twice the amount of weight-mile tax charged on the temporary pass rounded up to the next ten dollars, whichever is greater. A motor carrier may opt to provide a bond in lieu of serial incremental cash deposits.

(11) The Department reserves the right to modify or waive a deposit required by this rule if Department records indicate such modification, or waiver, is in the public interest.

Stat. Auth.: ORS 823.011 & 825.506

Stats. Implemented: ORS 825.506

Hist.: PUC 120, f. 10-26-62, ef. 11-15-62, Order No. 38811; PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 3-30, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Renumbered from 860-033-0020; PUC 6-1984(Temp), f. & ef. 3-19-84 (Order No. 84-197); PUC 11-1984, f. & ef. 5-25-84 (Order No. 84-418); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 12-1990, f. & cert. ef. 7-6-90 (Order No. 90-950); PUC 2-1992, f. & cert. ef. 1-24-92 (Order No. 92-028); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-063-0020; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 3-1998, f. & cert. ef. 10-16-98; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTB 4-2002, f. & cert. ef. 8-23-02; MCTD 4-2010, f. & cert. ef. 10-25-10; MCTD 7-2012, f. & cert. ef. 8-17-12

740-040-0080

Instruments Filed Become Permanent Records

All bonds, except those filed pursuant to ORS 825.166, policies or certificates of insurance filed with the Department as required by statute are permanent records and cannot be returned to insurer or removed from the custody of the Department as long as the insured is subject to regulation under ORS Chapter 825.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.506

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-033-0025; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-063-0025

DIVISION 45

IDENTIFICATION, ISSUANCE AND PLACEMENT OF PLATES, MARKERS, DEVICES OR PASSES

740-045-0010

Commercial Vehicle Operating Credentials

(1) The Department will issue operating credentials in one or more of the following forms for each self-propelled vehicle for which registration fees have been paid and which may be listed or added to a certificate or permit:

(a) Oregon commercial or apportioned vehicle registration plates, registration cards and stickers set forth in ORS Chapter 826;

(b) Oregon Weight Receipt and Tax Identifiers set forth in ORS Chapter 825;

(c) Temporary credentials issued pursuant to ORS Chapters 825 and 826, including temporary Oregon Weight Receipt and Tax Identifiers to vehicles for which base jurisdiction license plate information has not been provided; and

(d) Identification plates for vehicles that are not subject to vehicle registration requirements, but are subject to weight-mile tax requirements.

(2) Oregon commercial or apportioned vehicle registration plates, Oregon Weight Receipt and Tax Identifiers, or temporary credentials must be fastened to, carried in, or identified on the self-propelled vehicle for which it is issued as provided in these rules. This identification must be available for inspection by the Department, its representative or other authorized persons at all times.

(3) Valid Oregon commercial or apportioned vehicle registration plates, Oregon Weight Receipt and Tax Identifiers, or temporary credentials must not be removed from the vehicle to which it is issued or transferred to any other vehicle under any circumstances not provided for in these rules.

(4) An Oregon Weight Receipt and Tax Identifier shall be considered invalid if:

(a) The vehicle is for any reason retired from service or removed from the carrier's list of vehicles under the permit or certificate upon which it is listed;

(b) The certificate or permit is for any reason suspended or canceled;

(c) The base jurisdiction license information for the vehicle changes;

(d) The information contained on the receipt is not legible or has been altered; or

(e) There has been a failure to provide insurance or bond as required by ORS Chapter 825.

(5) Oregon commercial or apportioned vehicle registration plates shall be considered cancelled and must immediately be removed from the vehicle if:

(a) Registration fees are not paid;

(b) The vehicle is for any reason retired from service or removed from the carrier's list of vehicles;

(c) There has been a failure to provide insurance or bond as required by ORS Chapters 825 and 826; or

(d) The vehicle is removed from a fleet by the end of the calendar year for which apportioned fees have been paid. Returned plates must be received in a Department office by January 10 of the year following the registration year.

(6) An Oregon Weight Receipt and Tax Identifier will be considered cancelled if it is not valid at the time of renewal or is otherwise not timely renewed.

(7) The fee described in ORS 825.450 for an Oregon Weight Receipt and Tax Identifier may be waived for a replacement Oregon Weight Receipt and Tax Identifier if the Department finds that:

(a) An original Oregon Weight Receipt and Tax Identifier was issued and the required fee was paid for the current year of operation; and

(b) The replacement is necessary because the base state invalidated the original registration plate and issued a replacement registration plate.

Stat. Auth.: ORS 823.011, 825.232, 825.450 & 826.031

Stats. Implemented: ORS 825.454, 825.470 & 826.023

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 152, f. & ef. 12-22-69 (Order No. 46489); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 4-79, f. & ef. 9-21-79 (Order No. 79-641); PUC 3-80, Part 1, f. & ef. 6-30-80 (Order No. 79-805); PUC 3-80, Part 2, f. & ef. 6-30-80 (Order No. 80-475); Renumbered from 860-034-0005; PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 12-1988, f. & cert. ef. 6-16-88 (Order No. 88-601); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-064-0005; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTD 1-2005, f. 3-18-05, cert. ef. 4-1-05

740-045-0020

Oregon Commercial or Apportioned Vehicle Registration Plates, Placement

(1) For the purpose of this rule, "front of the vehicle" means the front bumper, grill, headerboard or other front-end cab protection structure, the location of which allows a person facing the front of the vehicle to easily view the identification plate.

(2) Commercial or apportioned vehicle registration plates must be displayed as follows:

(a) Tractors and truck-tractors display plate on the front of the vehicle;

(b) Buses and trucks display one plate on the front of the vehicle and one plate on the rear of the vehicle; and

(c) In addition to the prohibitions found in ORS 803.550, plates must be kept legible, free of dirt and mud and not otherwise covered or hidden so as to be visible and easily read at all times.

Stat. Auth.: ORS 823.011, 825.450 & 826.031

Stats. Implemented: ORS 825.450 & 826.035

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 152, f. & ef. 12-22-69 (Order No. 46489); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 4-79, f. & ef. 9-21-79 (Order No. 79-641); Renumbered from 860-034-0006; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-064-0006; MCTB 3-1999, f. & cert. ef. 10-13-99; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02

740-045-0025

Vehicle Registration Plate and Oregon Weight Receipt and Tax Identifier — Transfer

(1) In the case of lease or sale of a vehicle to which a valid Oregon Weight Receipt and Tax Identifier or Oregon vehicle registration plate is assigned, the Department may allow such credential to remain assigned to the vehicle and be continued in use, provided the purchaser or lessee:

(a) Makes application, on forms approved by the Department, to continue the credentials in use under a certificate or permit issued to purchaser or lessee;

(b) Remits the fee specified in ORS 825.450 and 826.023; and

(c) Remits registration fees if the vehicle is registered under apportioned registration.

(2) The original certificate or permit holder shall be deemed, under section (1) of this rule, to be conducting all operations of the vehicle and shall remain responsible for all the operations of the vehicle until the credential has been transferred to the certificate or permit of the purchaser or lessee.

Stat. Auth.: ORS 823.011, 825.450 & 826.031

Stats. Implemented: ORS 825.450 & 826.035

Hist.: MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02

740-045-0030

Identification Devices

(1) A carrier, when authorized to use identification devices pursuant to ORS 825.454, in addition to any other applicable provisions in OAR 740-045-0010, shall, in regard to each self-propelled vehicle operated by it in the State of Oregon, assign a carrier number to each such vehicle and report the number assigned to the Department.

(2) Each carrier must, on forms approved by the Department, apply for authority to use identification devices and report the assigned vehicle number before placing the exterior identification on each vehicle as described in OAR 740-100-0010.

(3) Commencing January 1, 1968, and biennially thereafter, all outstanding identification devices will be renewed. Authorization to use identification devices will extend to the next biennial renewal period. The carrier shall pay to the Department at the time of making application for authority to use an identification device or for renewal of such authority a biennial fee of \$10. Nothing herein shall preclude the Department from issuing identification devices on an annual basis as provided in ORS 825.454.

(4) No carrier shall release a self-propelled motor vehicle, that is externally identified as provided in this rule, from the carrier's control on a permanent basis without first removing or permanently concealing this external identification, or on a temporary basis without temporarily or permanently removing or concealing such external identification.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.450, 825.454, 826.009 & 826.035

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 3-80, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Renumbered from 860-034-0007; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-064-0007; MCTB 2-1998, f. & cert. ef. 8-20-98

740-045-0050

Trusted Carrier Partner

Motor carriers who meet the qualifications found in OAR 740-045-0060 are eligible to participate in Oregon's Trusted Carrier Partner program. Participants are eligible for the following benefits:

- (1) Waiver of bond requirement;
- (2) Being subject only to probable cause safety inspections;
- (3) Being subject only to probable cause safety compliance reviews; and

- (4) Inclusion on ODOT's Trusted Carrier list.

Stat. Auth.: ORS 818.270, 823.011, 825.232 & 825.252

Stats. Implemented: ORS 818.270, 825.232, 825.250 & 825.506

Hist.: MCTB 4-1998, f. & cert. ef. 10-16-98; MCTB 6-2000, f. 12-15-00 cert. ef. 1-1-01

740-045-0060

Qualifications for Trusted Carrier Partner Program for a Property-Carrying Motor Carrier

(1) In order to qualify for participation in the Trusted Carrier Partner program, a motor carrier must:

- (a) Have at least 12 months history of Oregon operations;
- (b) Have a valid USDOT number;
- (c) Be a participant in Oregon's commercial vehicle electronic preclearance weigh station bypass program (GreenLight);
- (d) Not have an unsatisfactory safety rating with the State or Federal regulatory agencies;
- (e) Not be a carrier identified by the FMCSA Safety Measurement System as a carrier needing corrective interventions;
- (f) Not have a record of safety violations, including, but not limited to, violating an out-of-service order or having a driver found driving under the influence; or
- (g) Not have a driver and/or vehicle out-of-service percentage greater than the national compliance average.

(2) In addition to the requirements found in section (1) of this rule, the Department may deny participation in the Trusted Carrier Partner program for violations or conditions related to registration or tax requirements including, but not limited to:

- (a) Suspensions with the Department;
- (b) Civil monetary penalty actions;
- (c) Revocations of IFTA tax license;
- (d) More than one motor carrier related tax report filed late; or
- (e) More than one repayment plan entered into or satisfactorily concluded.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.212, 825.232, & 825.250

Hist.: MCTB 4-1998, f. & cert. ef. 10-16-98; MCTD 9-2012, f. & cert. ef. 10-23-12

740-045-0065

Qualifications for Trusted Carrier Partner Program for a Passenger-Carrying Motor Carrier

(1) In order to qualify for participation in the Trusted Carrier Partner program, a motor carrier must:

- (a) Have at least 12 months history of Oregon operations;
- (b) Have a valid USDOT number;
- (c) Not have an unsatisfactory safety rating with the State or Federal regulatory agencies;
- (d) Not be a carrier identified by the FMCSA Safety Measurement System as a carrier needing corrective interventions;
- (e) Not have a record of safety violations, including, but not limited to, violating an out-of-service order or having a driver found driving under the influence; or
- (f) Not have a driver and/or vehicle out-of-service percentage greater than the national compliance average.

(2) In addition to the requirements found in section (1) of this rule, the Department may deny participation in the Trusted Carrier Partner program for violations or conditions related to registration or tax requirements including, but not limited to:

- (a) Suspensions with the Department;
- (b) Civil monetary penalty actions;
- (c) Revocations of IFTA tax license;
- (d) More than one motor carrier related tax report filed late; or
- (e) More than one repayment plan entered into or satisfactorily concluded.

(3) Passenger carrying vehicles identified by the Trusted Carrier Partner program are subject to periodic inspection by ODOT.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.250 & 825.232

Stats. Implemented: ORS 825.212, 825.232, & 825.250

Hist.: MCTD 9-2012, f. & cert. ef. 10-23-12

740-045-0070

Trusted Carrier Partner Plates for Property-Carrying Vehicles

(1) In order to identify their status, Trusted Carrier Partners will be issued Trusted Carrier Partner plates (TCP plates) for each motor vehicle equipped with an operable transponder.

(2) A Trusted Carrier Partner must:

- (a) Display TCP plates on the front of the vehicle(s) and in accordance with OAR 740-045-0020(2)(c); and
- (b) Display the motor carrier's USDOT number on the TCP plate.

(3) TCP plates are valid unless the Trusted Carrier Partner to which they are issued:

- (a) No longer meets the qualifications identified in OAR 740-045-0060;

- (b) Uses the transponder or TCP plate in a manner not authorized by the Department; or

- (c) Files bankruptcy.

(4) When the motor carrier is notified by the Department that a TCP plate is invalidated, the motor carrier must immediately remove the plate from the motor vehicle and return it to the Department.

(5) A Trusted Carrier Partner who leases a motor vehicle with a TCP plate to another motor carrier must remove the TCP plate until the leased motor vehicle is returned to the control of the Trusted Carrier Partner.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.250 & 825.232

Stats. Implemented: ORS 825.212, 825.232, & 825.250

Hist.: MCTB 4-1998, f. & cert. ef. 10-16-98; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTD 9-2012, f. & cert. ef. 10-23-12

740-045-0075

Trusted Carrier Partner Plates for Passenger-Carrying Vehicles

(1) In order to identify their status, Trusted Carrier Partners will be issued Trusted Carrier Partner plates (TCP plates).

(2) A Trusted Carrier Partner must:

- (a) Display TCP plates on the front of the vehicle(s) and in accordance with OAR 740-045-0020(2)(c); and

- (b) Display the motor carrier's USDOT number on the TCP plate.

(3) TCP plates are valid unless the Trusted Carrier Partner to which they are issued:

(a) No longer meets the qualifications identified in OAR 740-045-0065;

(b) Uses TCP plate in a manner not authorized by the Department; or

(c) Files bankruptcy.

(4) When the motor carrier is notified by the Department that a TCP plate is invalidated, the motor carrier must immediately remove the plate from the motor vehicle and return it to the Department.

(5) A Trusted Carrier Partner who leases a motor vehicle with a TCP plate to another motor carrier must remove the TCP plate until the leased motor vehicle is returned to the control of the Trusted Carrier Partner.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.250 & 825.232

Stats. Implemented: ORS 825.212, 825.232 & 825.250

Hist.: MCTD 9-2012, f. & cert. ef. 10-23-12

740-045-0100

Lease of Vehicles by Carriers of Property (Other than Household Goods)

(1) Except as otherwise expressly provided, a vehicle may be operated under lease in for-hire or private carriage in Oregon intrastate commerce only in accordance with the terms of OAR 740-045-0100, 740-045-0120, and 740-045-0130. The compliance of a lease with the requirements of the rules of the Department pertaining to leasing is the responsibility of the parties to the lease.

(2) A vehicle lease shall contain all of the terms and conditions of the lease, and shall provide:

(a) The full name and address of each contracting party (lessor and lessee);

(b) A complete description of the vehicle;

(c) That the lessee has the right to exclusive possession, use, and control of the leased vehicle, with the exception that the lessor may use the leased vehicle for personal noncommercial uses with the permission of the lessee;

(d) A statement of the terms of renewal, if any;

(e) That during the period of the lease:

(A) The lessee assumes full responsibility for payment of all Oregon highway use taxes, fees, and penalties arising from operation of the vehicle, except to the extent lessee is relieved of such responsibility by OAR 740-045-0150;

(B) The lessee will bear all risk of loss or damage to property or injury to persons incident to the operation of the vehicle and shall be responsible to maintain cargo and liability insurance covering all operations of the vehicle under the lease. In fulfilling this requirement, it is permissible for the lessor to name the lessee as an insured on the lessor's insurance policy;

(C) The lessee assumes full responsibility for compliance with the rules of the Department, and in particular, OAR 740-045-0100, 740-045-0120, and 740-045-0130, relating to leasing, and the laws of the State of Oregon applicable to the operation of motor vehicles.

(3) The lessee shall exercise exclusive supervision and control of a leased vehicle during the period of the lease, except for the personal uses of the lessor referred to in subsection (2)(c) of this section.

(4) The lessee shall be solely responsible for the safe operation of the vehicle. The parties may agree that, as between themselves, the lessor may maintain the vehicle and assume such other costs of vehicle maintenance, including fuel costs.

(5) If the transportation to be performed under the lease is private carriage, the lessee must actually include the driver on the payroll of the lessee and treat such driver as an employee of the lessee in all respects as it does any regular employee. "Payroll," as used in this subsection, means that with respect to the compensation paid the driver, the lessee's records reflect that the lessee has included the driver as one of its employees in reports of employment to governmental agencies.

Stat. Auth.: ORS 183, 823 & 825

Stats. Implemented: ORS 825.470

Hist.: PUC 10-1995, f. & cert. ef. 8-30-95 (Order No. 95-882); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0130

740-045-0110

Lease of Vehicles by Household Goods Carriers

(1) Except as otherwise expressly provided, a vehicle may be operated under lease in for-hire carriage of household goods in Oregon intrastate commerce only in accordance with the terms of OAR 740-045-0110 to 740-045-0130 and a written agreement on a form supplied by the Department. The compliance of a lease with the requirements of the rules of the Department pertaining to leasing is the responsibility of the parties to the lease. The filing of the lease with the Department does not constitute approval by the Department of the terms of the lease or the legality of the operations thereunder.

(2) A vehicle lease shall contain all of the terms and conditions of the lease, and shall provide:

(a) The full name and address of each contracting party (lessor and lessee);

(b) A complete description of the vehicle;

(c) That the lessee has the right to exclusive possession, use and control of the leased vehicle, with the exception that the lessor may use the leased vehicle for personal noncommercial uses with the permission of the lessee;

(d) A detailed statement of the compensation to be paid for the use of the vehicle while under lease;

(e) A statement of the terms of renewal, if any;

(f) That during the period of the lease:

(A) The lessee shall assume full and sole responsibility for payment of all Oregon highway use taxes, fees and penalties arising from operation of the vehicle, except to the extent lessee is relieved of such responsibility by OAR 740-045-0150 and shall not be reimbursed by the lessor for such taxes, fees and penalties, directly or indirectly;

(B) The lessee will bear all risk of loss or damage to property or injury to persons incident to the operation of the vehicle and shall be responsible to maintain cargo and liability insurance covering all operations of the vehicle under the lease. In fulfilling this requirement, it is permissible for the lessor to name the lessee as an insured on the lessor's insurance policy;

(C) The lessee assumes full responsibility for compliance with the rules of the Department, and in particular, OAR 740-045-0110 to 740-045-0130, relating to leasing, and the laws of the State of Oregon applicable to the operation of motor vehicles.

(3) The lessee shall exercise exclusive supervision and control of a leased vehicle during the period of the lease, except for the personal uses of the lessor referred to in subsection (2)(c) of this rule. Furthermore, neither the lessor, nor a driver furnished or arranged for by the lessor, shall participate in any of the following activities:

(a) The dispatching of traffic;

(b) The billing and collection of freight charges for transportation performed by the vehicle; and

(c) The solicitation of shipments other than that which takes place in conjunction with the pickup or delivery of freight at a shipper's place of business.

(4) If the lessor provides a driver to a lessee who is a for-hire carrier of household goods and any party to the lease has been found by order of the Department to have violated ORS 825.100, ORS 825.950, OAR 740-045-0110, 740-045-0120 or 740-045-0170 through a leasing arrangement within the preceding two years of the effective date of the lease, the lessee shall include the driver on the payroll of the lessee if lease compensation for the use of the vehicle is based on a division of revenues. "Payroll," as used in sections (4) and (6) of this rule, means that with respect to the compensation paid the driver, the lessee's records reflect that the lessee has included the driver as one of its employees in reports of employment to governmental agencies.

(5) The lessee shall be solely responsible for the safe operation of the vehicle. The parties may agree that, as between themselves, the lessor may maintain the vehicle and assume such other costs of vehicle maintenance, including fuel costs, as are specifically listed

in the lease. If not included as part of the compensation for the use of the vehicle, the terms of compensation for maintenance shall be expressly stated in the lease.

(6) If the transportation to be performed under the lease is private carriage, the lessee must actually include the driver on the payroll of the lessee and treat such driver as an employee of the lessee in all respects as it does any regular employee.

(7) Within 90 days from the date of any transportation performed, the lessee shall pay to the lessor all compensation which the lessor has earned under the lease. The payment shall be in settlement of all obligations which have accrued under the lease, after deduction of just credits and offsets. The lessee shall prepare an itemized record of the settlement, including credits and deductions, and shall maintain such record for a period of three years after the termination of the lease.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.100

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Renumbered from 860-035-0140; PUC 10-1981, f. & ef. 10-30-81 (Order No. 81-777); PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 9-1982, f. & ef. 9-30-82 (Order No. 82-686); PUC 10-1988, f. & cert. ef. 5-6-88 (Order No. 88-477); PUC 1-1992, f. & cert. ef. 1-24-92 (Order No. 92-027); PUC 4-1994, f. & cert. ef. 1-27-94 (Order No. 94-192); PUC 1-1995(Temp), f. & cert. ef. 2-15-95 (Order No. 95-186); PUC 10-1995, f. & cert. ef. 8-30-95 (Order No. 95-882); MCT 2-1996, f. 2-16-96, Renumbered from 860-065-0140; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 6-1998, f. & cert. ef. 12-21-98; MCTD 3-2016, f. & cert. ef. 9-26-16

740-045-0120

Registration and Identification

(1) No vehicle leased by a motor carrier shall be used in Oregon intrastate commerce unless the lease is presented to the Department and the vehicle is registered for use under the lessee's operating authority.

(2) Except as provided in section (3) of this rule relating to short-term leases, no vehicle with a combined weight in excess of 26,000 pounds shall operate under lease in Oregon intrastate commerce, unless the lessee has obtained a valid Oregon Weight Receipt and Tax Identifier for the vehicle.

(3) If the vehicle with a combined weight in excess of 26,000 pounds is to be operated under lease for less than 10 days, the carrier must apply for and receive a temporary pass in lieu of an Oregon Weight Receipt and Tax Identifier, pay such fees as are required by the Department, and the lessee must agree to pay highway use taxes for extreme miles of travel in Oregon, both loaded and empty, on a declared combined weight basis.

(4) Vehicles operated under lease shall at all times be externally identified with the lessee's name, in the manner prescribed by OAR 740-100-0010.

(5) A copy of the lease must be carried on the vehicle during operation under lease and must be maintained at the carrier's principal place of business for a period of three years after the termination of the lease.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.100, 825.104 & 825.210

Hist.: PUC 4-1994, f. & cert. ef. 1-27-94 (Order No. 94-192); PUC 1-1995(Temp), f. & cert. ef. 2-15-95 (Order No. 95-186); PUC 10-1995, f. & cert. ef. 8-30-95 (Order No. 95-882); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0141; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02

740-045-0130

Leased Vehicles in Interstate Commerce

With the exception of buses, all vehicles operating under lease within the state of Oregon in interstate commerce must carry a copy of the lease, to be produced on request of the Department or its authorized representative.

Stat. Auth.: ORS 183.335, 823.011 & 825.232

Stats. Implemented: ORS 825.100, 825.104 & 825.210

Hist.: PUC 4-1994, f. & cert. ef. 1-27-94 (Order No. 94-192); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0142

740-045-0150

Mileage Fees on Leased Equipment

(1) The lessee of vehicles being operated under OAR 740-045-0110 to 740-045-0130 is responsible for mileage fees due for all operations of those vehicles in Oregon during the term of the lease.

(2) The lessee may be relieved of responsibility for mileage fees on vehicles with valid Oregon Weight Receipt and Tax Identifiers being operated under OAR 740-045-0110 only following written notification to the Department that the lease has been terminated.

(3) The lessee may enter into fee pay agreements authorizing the owner or lessor to report and pay mileage fees for vehicles carrying the Oregon Weight Receipt and Tax Identifiers issued in the lessee's or lessor's name provided:

(a) The fee pay agreement is signed by both the lessee and the owner or lessor; and

(b) The agreement is filed with and approved by the Department. Such fee pay agreements shall not relieve the lessee of its obligation for payment of mileage fees accruing during the term of the lease and prior to written notification of the termination of the lease.

Stat. Auth.: ORS 823.011 & 825.230

Stats. Implemented: ORS 825.100, 825.104 & 825.210

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Renumbered from 860-035-0150; PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); PUC 4-1994, f. & cert. ef. 1-27-94 (Order No. 94-192); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0150; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02

740-045-0170

Leasing, Loaning, or Renting of Certificates, Licenses or Permits Prohibited

(1) No certificate, permit or license holder shall engage in any conduct which falsely tends to create the appearance that services being furnished or operations under such certificate, permit or license are being provided by the holder, when in fact they are not.

(2) No lease, device or arrangement constituting a leasing, loaning, or renting of a certificate, license, or permit will be recognized or approved by the Department.

Stat. Auth.: ORS 824 & 825

Stats. Implemented: ORS 825.100, 825.104 & 825.470

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-032-0075; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-062-0075

DIVISION 50

AMENDMENTS OF TARIFFS AND TIME SCHEDULES

740-050-0010

Regulation of Oregon Intrastate Motor Carrier Rates and Routes, Classifications and Mileage Guides

(1) "Participating carriers" means a carrier for whom an agent files a tariff, or any part thereof, with the Department for review and approval.

(2) To provide antitrust immunity to persons who collaborate for the purpose of determining all rates for the transportation of household goods for the transportation of other property, classifications, mileage guides and other publications relating to the transportation of property, the Department will accept for review and approval tariffs and other relevant submissions presented by carriers or their agents. The following apply to mileage guides:

(a) Mileage guides, electronic or otherwise, or any amendments thereto, shall be submitted to the Department for approval; and

(b) The Department shall, within 60 days, determine the accuracy of the mileage guide, or amendments thereto, and shall either accept or reject the submission. In determining accuracy, the Department shall, to the extent possible, rely on the Official Highway Map of Oregon.

(4) The rules of the Department in division 50 shall apply:
 (a) To the transportation of household goods; and
 (b) To tariff provisions relating to classifications and mileage guides which have been submitted to the Department for review and approval.

(5) Tariffs which are subject to the jurisdiction of the Department and are filed by a carrier for review and approval may be filed by an authorized agent of the carrier if the carrier has provided the agent with a written power of attorney authorizing the agent to act on its behalf. A tariff published and filed by an agent on behalf of a carrier shall identify clearly the carrier for whom the tariff is being published.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
 Stats. Implemented: ORS 825.100, 825.200, 825.202 & 825.224
 Hist.: PUC 17-1994(Temp), f. 12-28-94, cert. ef. 1-1-95 (Order No. 94-1954);
 PUC 2-1995, f. & cert. ef. 3-13-95 (Order No. 95-266); MCT 2-1996, f. & cert.
 ef. 2-16-96; Renumbered from 860-67-000; MCT 3-1996, f. & cert. ef. 3-14-96;
 MCT 6-1996, f. & cert. ef. 12-19-96; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0020

Tariffs and Time Schedules Must Conform to Rules Prescribed Herein and Must Be Filed

All tariffs related to the intrastate for-hire transportation of household goods must be filed and compiled in compliance with and conform to these rules. The Department may direct the reissuance of any such tariff or time schedule at any time.

Stat. Auth.: ORS 823.011, 825.200, 825.202 & 825.224
 Stats. Implemented: ORS 825.200, 825.202 & 825.224
 Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0005; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0005; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0050

Size and Form of Tariffs and Time Schedules

(1) Tariffs and time schedules must be in book, loose-leaf, sheet or pamphlet form. Individual pages to loose leaf tariffs shall be designated so that changes can be made by reissuing individual pages or pages published as a unit.

(2) Tariffs and time schedules or supplements thereto containing five or more pages must be printed on regular letter size paper of good quality, 8 or 8-1/2 x 11 inches, from type of size not less than 6 point, full face. Tariffs and time schedules containing four pages or less may be typewritten, provided all copies are clear and legible. Alterations in writing or erasures must not be made. Reproduction may be by any process, providing all copies are clear and permanently legible.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
 Stats. Implemented: ORS 825.200, 825.202 & 825.224
 Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0020; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0020; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 6-1996, f. & cert. ef. 12-19-96; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0060

Form of Appointment of Agent

The following form will be used in giving a power of attorney to an agent:

POWER OF ATTORNEY
 To be filed with the Oregon
 Department of Transportation
 _____ (Name of Carrier in full)
 _____ (Place) _____ (Date)

Form A.F. 1 No. _____
 To the OREGON
 DEPARTMENT OF TRANSPORTATION
 Salem, Oregon

This is to certify that (name of carrier) has made, constituted and appointed and by these presents does make, constitute and appoint (name of person appointed) the true and lawful attorney and agent for the said carrier and in its name, place and stead: (1) for it alone, and (2) for it jointly with other carriers, to file tariffs, classifications, and exception

sheets and supplements thereto, as required of transportation companies under the laws of Oregon and rules and regulations established by the Oregon Department of Transportation, thereunder for the period of time, the traffic and territory herein named:

And the said (name of carrier) does hereby give and grant unto said attorney and agent full power and authority to do and perform all and every act and thing above specified, as fully to all intents and purposes as if the same were done and performed by the said carrier, hereby ratifying and confirming all that said attorney and agent may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of said attorney and agent hereunder.

IN WITNESS WHEREOF, the said carrier has caused these presents to be signed (in its name by its legal executive officer) at _____ in the State of Oregon, on this _____ day of _____, 19____.

 (Name of Carrier)

By: _____

 (Name of Officer)

 (Title of Officer)

Attest:

(Corporate Seal)

Carrier issuing this form will file the original with the Department and will furnish duplicate to the agent to whom power of attorney is given.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
 Stats. Implemented: ORS 825.100, 825.202 & 825.224
 Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0025; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-067-0025; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0100

Adoption of Tariffs — Time Schedules

(1) In case a for-hire household goods carrier tariff, is transferred from the operating control of one company to that of another, or when its name is changed, the new carrier, if it intends to use tariffs issued by the old carrier powers of attorney granted by the old carrier, shall issue and file supplements to such tariffs and/or time schedules containing an adoption notice reading substantially as follows:

“The _____ (Name of Carrier) hereby adopts, ratifies, and makes its own in every respect as if the same had been originally issued and filed by it, all tariffs, rules, notices, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, filed with the Public Utility Commission of Oregon or the Oregon Department of Transportation by the _____ (Name of Old Carrier) prior to (date) the beginning of its possession. By this notice it also adopts and ratifies all supplements or amendments to any of the above tariffs, which have heretofore been filed with said Commission or the Department.”

(2) Powers of attorney so adopted must be replaced and superseded by new powers of attorney issued by and in the name of the new carrier, and in each instance cancelling the powers of attorney superseded.

(3) In case a household goods carrier secures permission from the Department to temporarily discontinue operation of all or a part of its service, it shall issue and file supplements to its tariffs containing notice of such temporary discontinuance, and upon resumption of the discontinued service file further supplements containing notice of such resumption.

(4) Adoption, discontinuance and resumption supplements shall be assigned the next consecutive supplement number. Adoption notices may be filed and made effective immediately. Discontinuance and resumption supplements will be made effective in accordance with the Department's permission in each case. Such supplements will not be counted against the number of supplements permitted to such tariffs.

(5) Subsequent amendments to adopted tariffs must be filed in consecutively numbered supplements until the tariffs are reissued. The reissued tariffs and/or time schedules shall be numbered in the ODOT Oregon series of the new carrier.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
 Stats. Implemented: ORS 825.200, 825.202 & 825.224
 Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0045; MCT 2-

1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0045; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0110

Suspension of Tariff and Schedule Publications

(1) When the Department suspends the operation and defers the use of a tariff the following course shall be pursued by carriers.

(2) Upon receipt of the order of suspension the carrier or agent shall immediately issue and file with the Department a supplement stating that the tariff is under suspension and shall not be used until further and proper notice.

(3) When the Department vacates an order of suspension, the carrier or agent who published and filed such suspended tariff or supplement thereto shall immediately issue and file with the Department a supplement stating the date upon which the tariff or supplement becomes effective.

(4) Every suspension or vacation supplement issued under authority of this rule must bear on title page the following notation: "Issued under authority of OAR 740-050-0110 and in compliance with Order No. _____ of the Oregon Department of Transportation of (date) _____, 20 ____."

(5) Suspension and/or vacation supplements will be assigned the next consecutive supplement number and will not be counted against the number of supplements permitted to such tariffs.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.100, 825.202 & 825.224

Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-037-0050; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-067-0050; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0120

Rejected Tariffs

When a tariff is rejected by the Department, it must not thereafter be referred to, nor the ODOT Oregon number or carrier's serial number assigned thereto again used, except to note on a new publication that it is issued in lieu of such rejected tariff, i.e.:

"In lieu of _____, rejected by the Department."

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.100, 825.202 & 825.224

Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-037-0055; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-067-0055; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0140

Posting of Tariffs

(1) The provisions of this rule shall apply to for-hire carriers transporting household goods.

(2) A copy of the tariffs of carriers showing all rates, classifications, charges, or rules and regulations affecting rates, classifications or charges shall be kept by every carrier readily accessible for inspection by the public at all reasonable times in every station or office of such carrier where property is received for transportation, when such station or office is in charge of an agent.

(3) Agents shall be provided with facilities for tariffs in readily accessible form and shall be instructed and required to give information contained in such tariffs to lend assistance to seekers for information therefrom and to accord inquirers opportunity to examine any of said tariffs without requiring the inquirer to assign any reason for such desire.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.200, 825.202, 825.224 & 825.234

Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-037-0075; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0075; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0220

Title Page of Every Tariff

Title page of every tariff shall show:

(1) Oregon DOT number of tariff at the top of the page, and immediately thereunder the Oregon DOT number or numbers, if any, cancelled thereby. Oregon DOT serial number will be assigned to each tariff and run consecutively. Tariff serial number of carrier may also be entered on title page, run consecutively and show cancellations. Separate serial Oregon DOT numbers will be used for tariffs related to household goods.

(2) Name of issuing carrier or agent.

(3) Whether tariff is local, and whether it is a class, commodity, mileage, or combination of same, or a tariff of rules and regulations.

(4) The territory or points from, to or between which the tariff applies, briefly stated. Where detailed information is required, the title page may give reference to the items where the application of the tariff and the governing publications may be found.

(5) Date of issue on the lower left and date effective on the lower right hand of the page.

(6) Name, title and address of officer by whom tariff is issued on the lower part of the page.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.200, 825.202 & 825.224

Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0140; PUC 8-1988, f. & cert. ef. 4-6-88 (Order No. 88-334); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0140; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0230

Tariffs Shall Contain in the Order Named

All tariffs related to the transportation of household goods shall contain:

(1) Table of contents or index: a full and complete statement, in alphabetical order, of the exact location where information under general headings will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that the contents are plainly disclosed, the table of contents or index may be omitted.

(2) Names of issuing carriers, alphabetically arranged, or by proper reference describe the tariff containing these provisions. If there be not more than five participating carriers, their names may be shown on the title page. The form and number of power of attorney to the tariff must be shown (see OAR 740-050-0060).

(3) Complete index, alphabetically arranged, of all commodities upon which commodity rates are named, showing page upon which such rates will be found, also item numbers.

(4) Complete index, alphabetically arranged, of all commodities upon which exceptions to the classification are made, showing page upon which they are found, also item number.

(5) Complete index, alphabetically or geographically arranged, of all points from and to which tariff rates or fares apply, showing the index numbers and/or item numbers under which rates or fares will be found.

(6) An official list of all the points in connection with which the tariff applies.

(7) The different routes via which tariff applies must be shown together with appropriate reference to application of rates. When a tariff specifies routing, the rates may not be applied via routes not specified.

(8) Explanation of reference marks and technical abbreviations used in the tariff, except that a special provision applying to a particular rate may be shown in connection with and on the same page with such rate.

(9) Such explanatory statement in clear and explicit terms regarding the general application of rates and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

(10) Complete description of all commodities upon which exception to the classification class ratings, rules or requirements

are authorized showing item number, classification and other detail information.

(11) Rules and regulations which govern the tariff, the title of each rule or regulation to be shown, or by proper reference describe the tariff containing such rules and regulations. Under this head all of the rules, regulations or conditions which in any way affect the rates named in the tariff will be entered.

(12) An explicit statement of the rates, in cents or in dollars and cents together with the names of the points from, to or between which they apply, arranged in a simple and systematic manner, under proper index and item numbers. Tariffs shall be arranged in sections to separate different kinds of rates or provisions. The sections must be consecutively numbered and differentiation among sections must be clear.

(13) Each tariff which contains class and/or commodity rates shall also contain a rule reading, "Whenever a class rate and a commodity rate are named between specified points, the lower of such rates is the lawful rate."

(14) Tariff publications or supplements thereto must indicate increases, reductions, changes made in existing rates, charges, rules, regulations or classifications, or the insertion of new material, by the use of uniform symbols. Clear explanation of the use of symbols must be made in the tariff.

(15) At the foot of the last page of a tariff or supplement the words "The End" or "Last Page" should be shown.

(16) The terms "all points," "in the vicinity of" or similar terms must not be used in any tariff for the purpose of indicating the points from, to or between which rates or fares named therein apply.

(17) Commodity rates must be specific and must not be applied to analogous articles.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 825.200, 825.202 & 825.224
Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0145; PUC 8-1988, f. & cert. ef. 4-6-88 (Order No. 88-334); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0145; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0240

Amendments and Supplements

(1) A change in or addition to a tariff shall be known as an amendment, and, excepting amendments to tariffs issued in loose-leaf form, shall be printed in a supplement to the tariff and shall refer to the page, item or index of the tariff, or of previous supplement, which it amends.

(2) When the rates or rules in a tariff or a supplement are cancelled or changed, it must be under the same item or index number; for example, Item 10-A cancels Item 10. If a cancelled item, or any part thereof, is taken up and thereafter carried in another item of different number, the cancellation must be carried under the original item number and must show in what item or items the effective rates are to be found, and the cancellation of the item in the original tariff or supplement must be brought forward in successive supplements as a reissued item.

(3) An amended index or item must always be printed in a supplement in its entirety as amended, and the contents in each supplement shall be arranged in the same general order as the tariff which it amends.

(4) Supplements to a tariff shall be numbered consecutively as supplements to that tariff and must not be given separate or new Oregon DOT numbers. Each supplement shall specify the supplement or supplements which it cancels, and shall also show on its title page what supplements contain all changes from the original tariff. For example: "Supplement No(s) ___ to Oregon DOT No. ___ Cancels Supplement No(s) ___ and ___, Supplement(s) No. ___ and ___ contain all changes from the original tariff."

(5) A supplement which contains reissued items brought forward without change must show the following: "Reissue: Effective (date upon which item became effective) in Supplement No. ___."

(6) All changes and additions to tariffs issued in loose-leaf form must be made by reprinting the entire page upon which the change is made. Except where a specific cancellation is shown on a new revised page, a revised page cancels any and all uncanceled or original pages, or uncanceled portions thereof, which bear the same page designation. Such pages must not be given supplement numbers, but must be designated "First Revised Page No. ___," "Second Revised Page No. ___," etc.; and must show the Oregon DOT and carrier's serial number of the tariff, the issued and effective date, and the name, title and address of officer by whom issued, conforming to original pages.

Stat. Auth.: ORS 823.011, 825.200, 825.202 & 825.224
Stats. Implemented: ORS 823.200, 825.202 & 825.224
Hist.: PUC 69, f. 9-10-59, ef. 7-1-33 (Order No. 2115); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0150; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0150; MCT 3-1996, f. & cert. ef. 3-14-96

740-050-0500

Filing Requirements for Tariffs

(1) Applicants for authority to transport household goods must:

(a) File two copies of a proposed tariff of rates, charges, classifications, practices, privileges and rules, compiled in conformity with Division 50 rules and secure tariff approval; or

(b) Designate a tariff publishing agent and file:

(A) Written power of attorney appointing such agent; or

(B) Confirming letter from such agent indicating that a tariff filing will be made in behalf of applicant if and when the requested authority is granted;

(2) Applicants designating tariff publishing agents will not be issued a certificate until such agent has established in its tariff the rates and charges applicable to the proposed operation.

(3) All supplements or amendments to original tariffs and reissues thereof must also be filed.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 825.202, 825.224 & 825.234
Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-037-0265; MCT 2-1996, f. & cert. ef. 2-14-96; Renumbered from 860-067-0265; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0600

New Rates Effective on Granting of Authority

The initial rates of a household goods carrier shall be effective with the granting of authority to operate as a motor carrier.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 825.110, 825.202 & 825.224
Hist.: PUC 19, f. 7-3-58, ef. 1-1-50 (Order No. 24027); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 2-1980, f. & cert. ef. 3-27-80 (Order No. 80-179); Renumbered from 860-037-0295; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0295; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0610

Procedures for Changing Tariffs

(1) All rates, charges, classifications and rules and regulations governing the practices or services of a motor carrier transporting household goods in intrastate commerce in Oregon must be filed as a tariff and fixed by order of the Department. Changes in tariffs must be made pursuant to Division 50 rules.

(2)(a) Written petitions to amend tariffs may be submitted to the Department by a household goods carrier, a tariff bureau under OAR 740-050-0640, or by any other party having an interest in the matter;

(b) The Department may permit a tariff change to become temporarily effective if that action is in the public interest.

(3)(a) All petitions for changes in tariffs will be assigned for public hearing. The hearing notice will set the time and place for the hearing;

(b) If the petition is for a general increase, the Department will use the Oregon Consumer Price Index-Urban (ORCPI-U) as the basis for determining if the requested increase is justified. The Department will use a comparison of the ORCPI-U in effect at the time of the last general increase with the current ORCPI-U;

(c) As used in this rule, "general increase" means a general increase in, restructuring of, or substantial change in rates previously approved by the Oregon Public Utility Commission or the Oregon Department of Transportation.

(4)(a) The Department's notice will designate as respondents in petitions for general increases, unless specifically exempted, all carriers who possess authority to transport household goods and who are members of Oregon tariff bureaus pursuant to OAR 740-050-0640, or who publish individual tariffs and generate Oregon intrastate revenues from economically regulated commodities of \$500,000 or more annually;

(b) Exemptions under subsection (4)(a) of this rule may be granted by the Department upon a showing that the territory served by the carrier, or the carrier's method of operation is such that the carrier does not compete with the petitioner;

(c) If the Department approves the petition for general increase, the tariff change will apply to all respondents. A respondent may tender evidence at the hearing justifying independent rates which will apply only to that carrier. Upon giving seven days written notice to the Department, the petitioning carrier and any supporting rate bureau, any respondent may participate at the hearing as a party in opposition to application of the proposed general increases for its account. Upon a proper showing the Department may exclude such respondent from the application of the general increase proposal.

(5)(a) A tariff bureau may support or oppose another tariff bureau's petition at the Department's hearing;

(b) If the Department approves a tariff bureau petition which is not a general increase, the tariff change will apply to members of all Oregon tariff bureaus;

(c) For a tariff bureau petition, other than that described in section (3) of this rule, the notice shall describe as respondents all carriers who possess authority and who are members of Oregon tariff bureaus pursuant to OAR 740-050-0640.

(6) Individual carrier proposals submitted by independent action and approved by the Department shall apply only to the petitioning carrier.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
 Stats. Implemented: ORS 825.200, 825.202, 825.224 & 825.224
 Hist.: PUC 19, f. 7-3-58, ef. 1-1-50 (Order No. 24027); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); Renumbered from 860-037-0300; PUC 10-1981, f. & ef. 10-30-81 (Order No. 81-777); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 10-1983(Temp), f. & ef. 9-1-83 (Order No. 83-538); PUC 3-1984(Temp), f. & ef. 2-15-84 (Order No. 84-113); PUC 14-1984, f. & ef. 7-27-84 (Order No. 84-578); PUC 20-1985, f. & ef. 11-8-85 (Order No. 85-1087); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0300; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 8-2005, f. & cert. ef. 12-14-05; MCTD 6-2014, f. & cert. ef. 9-22-14; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0620 Tariff Docket Procedures

(1) A petition to change a tariff shall be made only upon forms furnished by the Department.

(2) A petition shall be assigned a docket number when received by the Department and shall be listed for hearing upon the next appropriate notice of tariff docket hearing. One copy of the application shall be returned to the petitioner with the docket number which it has been assigned.

(3) Docket items shall be assigned circle 1 (hearing and order required before publication) or circle 2 (authorized for publication prior to hearing pursuant to ORS 825.220).

(4) A notice of hearing for petitions on proposed changes in tariffs shall be accompanied by a list of docket items to be consid-

ered. Each docket item shall specify in detail the nature of the proposed change. Notices of docket hearing will be mailed to all affected carriers, tariff bureaus and interested parties not less than 10 days prior to the date assigned for hearing.

Stat. Auth.: ORS 823.011, 825.202, 825.222 & 825.224
 Stats. Implemented: ORS 825.224
 Hist.: PUC 19, f. 7-3-58, ef. 1-1-50 (Order No. 24027); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); Renumbered from 860-037-0310 ; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-067-0310; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01

740-050-0630 Rates Orders

Unless otherwise provided by rule or specific order of the Department, rate orders related the transportation of household goods shall be mandatory upon all carriers enjoying operating authority to transport the affected commodities.

Stat. Auth.: ORS 184.619, 184.619, 823.011 & 825.232
 Stats. Implemented: ORS 825.200, 825.202 & 825.224
 Hist.: PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); Renumbered from 860-037-0315; PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 3-1984(Temp), f. & ef. 2-15-84 (Order No. 84-113); PUC 14-1984, f. & ef. 7-27-84 (Order No. 84-578); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-067-0315; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0640 Tariff Bureau Ratemaking Practices and Procedures

(1) For-hire carriers may authorize tariff bureaus whose rules of procedure have been approved by the Department to file petitions and publish tariffs in their behalf and to represent their interests before the Department.

(2) A carrier member of a tariff bureau, which carrier is affiliated in any way with a shipper, may not serve on the tariff bureau's board of directors, rate committees, or any other committee which has an effect, either directly or indirectly, on the ratemaking function of the bureau without prior approval of the Department.

(3) A tariff bureau shall not broaden the territorial or commodity scope of an individual rate proposal without giving notice to member carriers and affected shippers.

(4) Tariff bureaus shall not discourage independent proposals of member carriers nor oppose at hearings any independent proposal of a member or nonmember carrier.

Stat. Auth.: ORS 823.011, 825.200, 825.202, 825.224 & 825.226
 Stats. Implemented: ORS 825.200, 825.202 & 825.224
 Hist.: PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); Renumbered from 860-037-0320; PUC 3-1984(Temp), f. & ef. 2-15-84 (Order No. 84-113); PUC 14-1984, f. & ef. 7-27-84 (Order No. 84-578); PUC 20-1985, f. & ef. 11-8-85 (Order No. 85-1087); MCT 2-1996, f. & cert. ef. 2-14-96; Renumbered from 860-067-0320; MCT 3-1996, f. & cert. ef. 3-14-96

740-050-0800 Delivery of Household Goods — Notification of Shipper

(1) All for-hire household goods carriers must make, or arrange for, prompt delivery of goods.

(2) In the event the carrier's tariff does not provide for delivery and no arrangement therefor has been made or authorized, such carrier must give the shipper prompt notice of the arrival of goods.

Stat. Auth.: ORS 823.011, 825.202 & 825.224
 Stats. Implemented: ORS 825.202
 Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-036-0005; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-066-0005; MCT 3-1996, f. & cert. ef. 3-14-96

740-050-0810 Storage of Household Goods

Carriers of household goods are prohibited from granting free storage of household goods except as provided by tariff.

Stat. Auth.: ORS 823.011, 825.202 & 825.224
 Stats. Implemented: ORS 825.202 & 825.224
 Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No.

42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-036-0010; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-066-0010; MCT 3-1996, f. & cert. ef. 3-14-96

740-050-0820**Collection of Transportation Charges — Extension of Credit**

(1) The provisions of this rule shall apply to carriers for hire in the transportation of household goods and other for-hire carriers of property that elected to be subject to this rule by filing a written election to that effect with the Department.

(2) Except as provided in this rule and OAR 740-060-0040(3), no for-hire carrier shall deliver or relinquish possession of any freight until all lawful transportation charges thereon have been paid.

(3) This rule does not prevent extension of credit for such transportation charges provided:

(a) An arrangement has been made providing for payment within 7 days (excluding Sundays and legal holidays) following delivery;

(b) Such 7-day period shall commence at 12 a.m. of the day following delivery whenever the freight bill is presented at or before delivery of the freight;

(c) Such 7-day period shall commence at 12 a.m. of the day following presentation of the freight bill if presented after delivery of freight; and

(d) The freight bill must in any case be presented within 7 days after delivery of the freight.

(4) A motor carrier may extend credit in excess of the time period provided in section (3) of this rule to the United States, the State of Oregon, any county, city, town or municipality in this state or any department of any of them.

(5) All charges incident to transportation must be paid in lawful money of the United States. This rule shall not be construed to prohibit the payment by valid checks, drafts, credit cards or money orders which are convertible into cash on demand in the ordinary course of business.

(6) Under no condition may payment and any charges incident to transportation of household goods be made by credit memorandum, personal service, merchandise or the exchange of goods or services. The offsetting or balancing of amounts receivable against accounts payable by means of accounting entries is prohibited.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.200, 825.202 & 825.224

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-036-0015; PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 3-1991, f. & cert. ef. 1-16-91 (corrected 1-31-91) (Order No. 90-1916); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-066-0015; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 8-1997, f. & cert. ef. 11-17-97; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0830**Overcharge Claims Against Household Goods Carriers**

(1) Claims by shippers must be submitted to for-hire carriers of household goods in writing.

(2) The following documents must be furnished in support of overcharge claims:

(a) Original paid freight bill;

(b) Original sales invoice or certified copy, when claim is based on weight or valuation or when shipment has been improperly described;

(c) Original bill of lading, if not previously surrendered to carrier, when shipment was prepaid or when claim is based on misrouting or valuation;

(d) Weight certificate or certified statement of weight when claim is based on weight; and

(e) Bond of indemnity in lieu of original bill of lading or freight bill when lost or destroyed.

(3) When claim is paid by agent, signature of claimant must be secured. All claim papers must be attached to collection sheet on which credit is taken.

(4) All claims must be promptly acknowledged by the carrier. If the claim is not paid in full, the carrier shall advise the claimant in writing of the reason for refusal to make full payment, including reference to any applicable tariff.

Stat. Auth.: ORS 823.011, 825.224 & 825.950

Stats. Implemented: ORS 825.224 & 825.950

Hist.: PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-033-0035; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-063-0035; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-050-0840**Loss and Damage Claims Against Carriers**

The rules and regulations prescribed by the U. S. Department of Transportation for the investigation and voluntary disposition of loss and damage claims and for the processing of salvage, contained in 49 CFR Part 370, with all amendments thereto revised as of August 1998, are adopted and prescribed by the Department to be observed by all carriers of household goods operating within the State of Oregon.

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

Stat. Auth.: ORS 823.011 & 825.202

Stats. Implemented: ORS 823.101 & 825.202

Hist.: PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-033-0040; PUC 3-1991, f. & cert. ef. 1-16-91 (Order No. 90-1916); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-063-0040; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01

DIVISION 55**RECORDS, REPORTS, AND
ACCOUNTING FEES AND TAXES****740-055-0010****Payment of Weight-Mile Tax, Reporting Period Variations**

(1) All motor carriers must report and pay fees as provided in ORS Chapter 825 for all motor vehicles they operate.

(2) Motor carriers must retain a copy of highway use tax reports and all work papers or reference data used in, or received in, the conduct of their business and affecting the computation of fees. Unless such supporting data and other required accounting records are fully and accurately maintained, the motor carrier may, upon audit, be denied credit for any unsupported items and in addition be subject to other penalties prescribed by ORS Chapter 825.

(3) Information contained in the highway use tax report must be legible and readable. A report is legible when the observer is able to identify enough letters and numerals to positively and quickly determine the reporter's intent. A report is readable when the observer is able to recognize a group of letters or numerals as words or complete numbers.

(4) If a highway use tax report is illegible or unreadable, the Department will mark the report as illegible or unreadable and return the report to the motor carrier. The Department will consider the illegible or unreadable highway use tax report as unfiled.

(5) The date the motor carrier files a legible and readable highway use tax report will determine the report's timeliness.

(6) If a motor carrier fails to file a legible and readable highway use tax report to replace the returned, illegible or unreadable tax report, the motor carrier may be considered delinquent in reporting taxes and subject to the penalties set forth in ORS 825.139, including suspension or cancellation of authority.

(7) Motor carriers desiring to report mileage taxes on other than a calendar-month basis must submit a written request to the Department. The number of reporting periods in any 12-month period must not be less than 12. The application must specifically identify the requested reporting periods. Motor carriers must submit a new request for each calendar year:

(a) Reports will be due on or before the last day of the following reporting period. Taxes and fees incurred in the last half of any reporting period may be reported and paid to the Department on or before the end of the second reporting period following the

period in which the taxes or fees were incurred. Reports, taxes, or fees that are not reported in conformance with this paragraph are subject to a 10 percent late payment charge; and

(b) If a motor carrier does not obtain approval for other than calendar month reporting, the Department may impose a 10 percent late payment charge for any operations reported outside of standard calendar month reporting pursuant to ORS 825.490(1). The Department may revoke a motor carrier's authority to report on an other than calendar-month basis for failure to comply with Weight-Mile tax requirements.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232 & 825.490

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0005; PUC 7-1990, f. & cert. ef. 5-25-90 (Order No. 90-836); MCT 3-1996, f. & cert. ef. 3-14-96, Renumbered from 860-068-0005; MCTD 5-2011, f. & cert. ef. 12-22-11

740-055-0015

Payment of Weight-Mile Tax; Quarterly Reporting

(1) A motor carrier with less than 12 months of Oregon operations may be approved to report and pay weight-mile tax on a quarterly basis. In addition to a written application on a form provided by the Department, the applicant may be required to submit a financial statement covering the previous 12 months.

(2) A motor carrier with 12 consecutive months or more history of Oregon operations may be approved to report and pay weight-mile tax on a quarterly basis if:

- (a) The applicant submits a written application on a form provided by the Department; and
- (b) An analysis of Department records indicates that:
 - (A) In the last 12 months, the motor carrier has had:
 - (i) No suspensions related to reporting or payment of taxes or fees to the Department;
 - (ii) No revocation of IFTA tax license;
 - (iii) No more than 25% of weight-mile tax reports filed late;
 - (iv) No repayment plan entered into or concluded with the Department; and
 - (v) No delinquency in payment of over-dimensional permit fees or road use assessment fees.
 - (B) In the last 36 months, the motor carrier has not had a weight-mile tax audit resulting in an assessment that exceeds more than 15% of the taxes and fees reported and paid during the audit period.

(3) The Department reserves a minimum of 90 days from the date an application is received in which to consider the application. A motor carrier approved to report and pay weight-mile tax on a quarterly basis may begin such reporting and payment in the first full calendar quarterly reporting period immediately following the month approval is granted by the Department.

(4) The Department may revoke a motor carrier's approval to report and pay weight-mile tax on a quarterly basis if the Department determines a motor carrier no longer meets the conditions described in section (2) of this rule.

(5) Motor carriers authorized to pay weight-mile tax on a quarterly basis prior to July 1, 2002, will be allowed to continue such reporting without additional approval if:

- (a) The annual tax liability for the motor carrier does not exceed \$3,600, and in the last 12 months, the motor carrier has:
 - (A) No more than one suspension related to reporting or payment of taxes or fees to the Department; and
 - (B) No more than two weight-mile tax reports filed late.
- (b) The annual tax liability exceeds \$3,600 and the motor carrier meets the conditions described in subsection (2)(b) of this rule.

Stat. Auth.: ORS 823.011 & 825.492

Stats. Implemented: ORS 825.492

Hist.: MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02

740-055-0020

Payment of Fees and Refunds

(1) Carriers registered with the Oregon Department of Transportation, or their agents as established either through an approved Power of Attorney or prior remittance of taxes or fees on behalf of the carrier, shall pay taxes and fees by either:

- (a) Cash;
- (b) Bank Draft;
- (c) Guaranteed Draft;
- (d) Credit card, under the conditions described in ORS 825.502;
- (e) Cashier's Check;
- (f) Travelers Check;
- (g) Company check when drawn in the name of record of the account to which it is to be applied;
- (h) Personal or business check from an agent described in subsection (1);
- (i) Personal check when drawn in the name of a company employee;
- (j) Personal check from a corporate officer; or
- (k) Personal check when drawn in the name of a lessor driver when accompanied by a copy of the lease.

(2) Carriers not registered with the Oregon Department of Transportation shall pay fees and taxes due by either:

- (a) Cash;
- (b) Bank Draft;
- (c) Guaranteed Draft;
- (d) Credit card, under the conditions described in ORS 825.502;
- (e) Cashier's Check; or
- (f) Travelers Check.

(3) All payments to the Oregon Department of Transportation for taxes and fees shall be in United States funds.

(4) In the event any check drawn payable to the Department for payment of taxes or fees is not honored, the motor carrier account for which the check was drawn will be assessed the maximum service charge authorized by ORS 30.701(5) for each such check and the motor carrier account for which the check was drawn may thereafter be required to remit taxes or fees by money order, bank draft, certified check, or cash.

(5) The Department will not issue a refund by cash to a motor carrier. The Department will not issue a refund by check to a motor carrier unless the dollar amount is equal to or greater than \$100.00.

(6) The Department will only issue a check for less than \$100.00 after a motor carrier's account has been audited and closed.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.502

Stats. Implemented: ORS 30.701, 825.498, 825.502

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 3-1988, f. & cert. ef. 1-25-88 (Order No. 88-068); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0010; MCT 6-1996, f. & cert. ef. 12-19-96; MCTB 2-1999, f. & cert. ef. 8-20-99; MCTD 3-2009, f. & cert. ef. 12-22-09; MCTB 4-2015, f. & cert. ef. 9-21-15

740-055-0025

Temporary Pass Fees

The department may issue a temporary pass as described in ORS 825.470 for a single trip or short-time operation not exceeding 10 days. A pass fee of \$9 will be collected for each pass issued.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.470

Stats. Implemented: ORS 825.470

Hist.: MCTD 7-2012, f. & cert. ef. 8-17-12

740-055-0030

International Fuel Tax Agreement Fees

(1) Each Oregon based International Fuel Tax Agreement (IFTA) licensee shall pay Oregon an annual fee as established in this rule. The annual fee is based on the number of motor vehicles the licensee elects to operate under IFTA and shall be computed as follows: [Table not included see ED. NOTE.]

(2) The IFTA licensee shall pay the fee to the Department at the time of making application for, or renewing, IFTA credentials. Subsequent addition(s) to the number of participating motor vehicles may require payment of additional fees. Additional fees, if applicable, are due at the time of making application for additional participating motor vehicles.

(3) The Department may suspend, revoke or cancel IFTA participation for failure to timely pay required IFTA fees or comply with the provisions of ORS 825.555.

(4) Farmers, for the purpose of this rule, are those persons having more than 50% of their participating vehicles registered as farm vehicles pursuant to ORS 805.300.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 825.555

Stat. Implemented: Sec. 1, Ch. 698, OL 2001

Hist.: MCTB 3-2001, f. & cert. ef. 11-9-01; MCTD 6-2005, f. & cert. ef. 10-20-05

740-055-0035

Change in Fee Basis

(1) As used in this rule, a fee basis is the method a carrier uses to report and pay Highway Use Tax, for example Monthly, Flat Monthly, Quarterly and Annual Mileage.

(2) Tax status is determined by the weight of the vehicle, commodity being transported, purpose of the transportation and highways traveled. The tax status is established by the operation performed at the time the commodity is transported, including without limitation; farm operations, for hire operations, exempt operations, such as school and non-profit operations, operations less than 26,000 pounds or operations on private roads and commodities designated as flat fee.

(3) A change in fee basis occurs when a commodity is loaded on a vehicle causing a change in the tax status. The vehicle remains in the fee basis indicated by the load while transporting that load and for any subsequent operations, including unladen travel, until a loaded commodity changes the fee basis.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 319.020, 319.530, 825.017, 825.474 & 825.480

Hist.: MCTD 4-2013, f. & cert. ef. 5-16-13

740-055-0045

Determination of Mailing Date

For reports and payments transmitted through the United States Postal Service on which the post-office cancellation mark on the envelope or wrapper containing the report or payment is omitted or is not legible, the department will consider the report or fee deposited in the United States mail as five (5) postal delivery days prior to the date received by the department.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 818.225, 825.472 & 825.555

Hist.: MCTD 5-2014, f. & cert. ef. 9-22-14

740-055-0100

Maintenance and Production of Records and Vehicles — Penalties

(1) At the request of the Department or its authorized representative, each motor carrier must produce for inspection or audit all records required to be prepared or maintained by statute or rules of the Department and all motor vehicles subject to the Department's jurisdiction. Each succeeding day that the records or vehicles are not made available for inspection or audit will constitute a separate violation of this rule until such records or vehicles are made available at the place stated in the request.

(2) In addition to any other penalty authorized by law, the operating authority of a person who fails to prepare, maintain, or produce records required by statute or the rules of the Department or fails to produce vehicles for inspection will be subject to suspension or cancellation.

(3) The penalties authorized will not be imposed unless the Department's request to produce vehicles for inspection or records for audit gives the motor carrier a reasonable time and place to produce said vehicles for inspection or records for audit.

(4) If a motor carrier makes records available for a weight-mile tax audit, but the records made available do not meet Depart-

ment requirements in OAR 740-055-0120, and the records as a whole are deemed so inadequate that they cannot be audited in the normally prescribed method, the Department may impose penalties described in OAR 740-300-0010. These penalties may be imposed even if the Department is able to complete an audit of the carrier's records by relying on any information available to the Department as described in ORS 825.490(3). The penalties are in addition to any other penalties authorized by law.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.210, 825.212, 825.232, 825.515

Hist.: PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-038-0048; PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 9-1994, f. & cert. ef. 4-21-94 (Order No. 94-637); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0048; MCT 8-1997, f. & cert. ef. 11-17-97; MCTD 4-2011, f. & cert. ef. 11-23-11

740-055-0110

Fuel Purchase Records and Refunds

(1) All motor carriers must obtain an invoice covering every purchase of motor vehicle fuel and preserve the same for a period of three (3) years subject to inspection by the Department or its representatives at all reasonable times. Fuel Card statements reflecting purchases from retail stations must clearly separate and identify retail and cardlock purchases. Purchases from retail stations require an invoice or receipt from the original seller to be accepted.

(2) Such invoice or statement must disclose:

(a) Date and location of purchase;

(b) From whom purchased;

(c) Kind of fuel and number of gallons purchased;

(d) Oregon Weight Receipt and Tax Identifier number, temporary pass number, or Special Transportation Permit of the vehicle if fuel is delivered directly into such vehicle; and

(e) Amount of fuel tax paid.

(3) Motor carriers purchasing fuel in Oregon may claim a credit for Oregon state fuel tax paid at the pump. Carriers shall deduct the amount of fuel tax paid from the highway use tax due on the highway use tax report for the period in which the fuel was purchased. Motor carriers taking a deduction on the highway use tax report for fuel tax paid shall attach a copy of all fuel invoices for which credit is claimed. Carriers who purchase fuel in bulk shall attach to the highway use tax report for the period in which the fuel was dispensed into a motor vehicle copies of invoices from fuel suppliers indicating Oregon state fuel tax paid and fueling records showing fuel dispensed for each motor vehicle.

(4) Motor carriers may submit a written request for refund of Oregon state fuel tax paid up to three years after purchase. A written request for refund may be granted for any Oregon fuel tax paid but not deducted from the highway use tax report for the period in which the fuel was purchased. Motor carriers requesting refund must attach copies of all invoices. No such refund will be issued until an audit has been performed.

Stat. Auth.: ORS 184.616, 184.619, 823.011

Stats. Implemented: ORS 825.476, 825.480, 825.484, 825.486

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0050; PUC 9-1990, f. & cert. ef. 5-25-90 (Order No. 90-835); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0050; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTB 4-2015, f. & cert. ef. 9-21-15

740-055-0120

Weight-Mile Tax Records Requirements

(1) All carriers must maintain records of their motor vehicle operations and make reports on forms approved by the Department. Such records must be:

(a) Stored at the carrier's principal office or place of business;

(b) Made available for inspection by the Department or its representatives upon request; and

(c) Retained for a period of three (3) years unless otherwise authorized by the Department.

(2) All carriers must maintain records containing the following information for each vehicle:

- (a) Origin and destination points;
- (b) Oregon entry and exit points;
- (c) Actual Oregon miles for each trip;
- (d) Pickup and delivery points in Oregon for each trip;
- (e) Routes for travel for each trip;
- (f) Dates of each trip;
- (g) Daily beginning and ending odometer or other mileage recording device readings for each vehicle;
- (h) Load tickets and/or bills of lading for each shipment transported;

(i) Identification of any exempt miles claimed, which shall include beginning and ending odometer or other mileage recording device readings for the exempt portion of each trip. If repeated trips are made to and from the same locations, a one-time recording of odometer or other mileage recording device readings for the exempt portion of those trips may be applied to the total number of trips;

(j) Carriers operating motor vehicles that are issued or required to obtain an annual variance permit under ORS 818.200(1)(a) to (c) with a combined weight of more than 80,000 pounds shall also provide for each reporting period:

(A) Number of axles in the vehicle configuration; and

(B) A record of changes of operation. A change of operation occurs when the vehicle configuration remains the same but the actual weight of the vehicle and load changes from over 80,000 lbs. to 80,000 lbs. or under. Empty movements are not changes in operation; and

(k) Carriers operating motor vehicles in multiple configurations shall provide the number of miles operated in each motor vehicle configuration for each trip.

(3) All registrants that pay registration fees via registration trip permits must retain a copy of each registration trip permit.

(4) Records generated from on-board recording devices, vehicle tracking systems, or other electronic data recording systems may be used in lieu of, or in addition to, the records required in this rule provided that the electronic records:

(a) Meet all the requirements of sections (1) through (3) of this rule; and

(b) Are provided in printed format upon request.

Stat. Auth.: ORS 823.011 & 825.515

Stats. Implemented: ORS 825.212 & 825.515

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0055; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); PUC 13-1990, f. & cert. ef. 7-6-90 (Order No. 90-949); PUC 4-1993, f. & cert. ef. 1-15-93 (Order No. 93-058); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0055; MCTD 1-2003, f. & cert. ef. 2-13-03

740-055-0130

For-Hire Farmers' Operating Records

(1) All farm carriers operating under a Class 1A permit issued under ORS 825.024(3), must maintain daily records on their motor vehicle operations and make reports on forms approved by the Department.

(2) The ODOT "Daily Record of Farm Vehicle Operation" form must be maintained on each vehicle registered under ORS 825.024(3):

(a) Entries must be made for each for-hire trip;

(b) Entries must be made for each farm exempt trip unless the vehicle is used solely in farm-exempt operations for a series of consecutive days, in which case the carrier may record the beginning and ending odometer readings for that period of time;

(c) If record keeping indicates that a vehicle was used solely in farm-exempt operations for a series of consecutive days and it is determined that the vehicle was used in a for-hire capacity at any point during that period of time, all miles recorded in the series of days may be assessed as taxable;

(d) Failure to maintain records accounting for both farm-exempt and for-hire operations may result in penalties under OAR 740-055-0100, suspension of the Class 1A permit, and all miles traveled may be assessed as taxable.

(3) Such records must be kept at the carrier's principle office or place of business and must be made available for inspection by the Department or its representatives at all reasonable times.

(4) Such records must be preserved for three years.

(5) In addition to any other requirements, farm carriers operating under a Class 1A permit issued under ORS 825.024(3), are also subject to the following record-keeping requirements: ORS 825.515 and OAR 740-055-0010, 740-055-0020, 740-055-0100, 740-055-0110, and 740-055-0220.

Stat. Auth.: ORS 823.011, 825.024 & 825.515

Stats. Implemented: ORS 825.024

Hist.: PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 7-1994, f. & cert. ef. 4-15-94 (Order No. 94-554); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-068-0056; MCT 3-1996, f. & cert. ef. 3-14-96

740-055-0140

Out-of-State Farm Verification

(1) All out-of-state persons claiming a farm exemption from ORS Chapter 825 under 825.024 shall:

(a) Obtain a temporary pass from the Oregon Department of Transportation and pay highway use tax at the time of entry into Oregon;

(b) Complete the Out-of-State Farm Verification form and have their appropriate tax assessor or other authorized official sign and notarize it; and

(c) Carry a copy of the approved Out-of-State Farm Verification form and current authorization letter in all vehicles claiming the exemption.

(2) The Out-of-State Farm Verification form shall be valid for two years from date of approval by the agency unless sooner revoked by the Department.

(3) Upon receipt of a valid Out-of-State Farm Verification, the Oregon Department of Transportation shall reimburse fees paid by qualified farmers provided the verification complies with ORS 825.024, and the claim is submitted within 90 days of the date the temporary pass was obtained.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 823.011 & 825.024

Stats. Implemented: ORS 825.024

Hist.: PUC 22-1984, f. & ef. 10-16-84 (Order No. 84-806); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-068-0058; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 2-1998, f. & cert. ef. 8-20-98

740-055-0150

Records — General — Household Goods

(1) Carriers authorized to transport household goods shall keep and maintain complete and comprehensive records of all business transactions as set forth in the prescribed Uniform System of Accounts.

(2) All papers, books, accounts, payroll, records, time records, bills, invoices, notes, mortgages, memoranda, correspondence files, vouchers, journals, ledgers, contracts, leases and agreements, operating and statistical statements or exhibits, stock books, minutes of meetings of directors, trustees and/or stockholders, records of mileage operated, annual or other periodic or special reports, working sheets or papers and all other papers and records disclosing or appertaining to operations of holders of certificates or permits authorizing transportation of household goods shall be maintained and shall at all reasonable times be available for examination, inspection and audit by the Oregon Department of Transportation and its authorized representatives.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 823.029, 825.200, 825.202, 825.212 & 825.224

Hist.: PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0063; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); MCT 2-1996, f. & cert. ef. 2-16-96, Renumbered from 860-068-0063; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-055-0170

Bills of Lading (Shipping Receipts) and Freight Bills

(1) The provisions of this section shall apply to carriers for hire in the transportation of household goods in intrastate commerce

within the State of Oregon which are submitted to the Department for review and approval.

(2) Carriers shall prepare freight bills for each and every shipment transported. Unless otherwise authorized by the Department, bills of lading, freight bills, and combination bills of lading and freight bills must be issued in sets of not less than triplicate for each shipment transported.

(3) Bills of lading shall show the date, name of the carrier, consignor, consignee, origin, destination, number of packages, or if in bulk, the quantity, description of articles and marks, description of the manner in which the shipment is packed and weight of shipment. The bill of lading shall also show whether the freight charges are to be prepaid or collect. The original of the bill of lading shall be signed and given to the consignor and shall constitute receipt by the carrier of the property for transportation. The number two copy (the shipping order) shall be retained by the carrier. If freight is delivered on the bill of lading, the consignee receives the memorandum copy. The consignee shall sign the carrier's shipping order as a receipt for freight delivery.

(4)(a) A freight bill shall contain the following information: date, freight bill number, name and address of carrier, consignor, consignee, origin, destination, number of packages, or if in bulk, the quantity, description of articles and marks, weight, rate and freight charge. When the rate assessed is a class rate, the applicable classification rating of the article(s) shall be shown on the freight bill. The freight bill shall also show charges for accessorial or special services provided by the carrier. If detention charges are applicable, the freight bill shall show the time that the equipment was placed on detention and when it was released from detention;

(b) If the applicable rates are published on an hourly or time basis, the freight bill or other documentation retained by the carrier shall show time taken for meals and other nonproductive time, and either:

(A) Time of departure of carrier's equipment from its terminal and time of return of equipment to carrier's terminal or next point of loading; or

(B) Time of arrival of the vehicle at the point of origin and the time service is completed at the point of destination, if rates are based on time consumed between arrival at origin and departure from destination.

(c) The freight bill shall also show advances or other charges, space to note whether the shipment is collect or prepaid, space for carrier to receipt for charges paid, and space for consignee to receipt for shipment. The signed original shall be given to the party paying transportation charges, a signed copy shall be retained by the carrier as a receipt for delivery of freight and a copy shall be given to the consignee on prepaid shipments.

(5) When a combination bill of lading and freight bill form is used, it must contain the same information required of a bill of lading and freight bill. The signed original is to be given to the party paying the freight bill, the second part (shipping order) is retained by the carrier, the third part is given to the consignor on a collect shipment or to the consignee on a prepaid shipment.

(6) If the combination bill of lading and freight bill is used as a bill of lading only, and an invoice for the transportation is issued by the carrier for submitting to the party paying the freight charges, the distribution of copies remains the same as delineated in section (3) of this rule.

(7) Shipments of machinery, machines, or heavy equipment shall be fully described on the bill of lading, freight bill, and combination bill of lading and freight bill by recording the trade name, model, number, type, kind of special equipment and parts, size, and capacity.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 823.101, 825.202, 825.204 & 825.224
Hist.: PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-77 (Order No. 77-896); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Renumbered from 860-038-0067; PUC 8-1988, f. & cert. ef. 4-6-88 (Order No. 88-334); PUC 16-1994(Temp), f. 12-28-95, cert. ef. 1-1-95 (Order No. 94-2077); PUC 5-1995, f. & cert. ef. 6-23-95 (Order No. 95-561); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0067; MCTD 3-2016, f. & cert. ef. 9-26-16

740-055-0180**Certified Scale Weights Required**

Actual weight of shipments of household goods must be obtained by having such shipments weighed over a certified scale whenever scale is available at point of origin, destination or enroute. The scale ticket shall be attached to the carrier's copy of the freight bill and be retained as a part of the carrier's records.

Stat. Auth.: ORS 823.011, 825.202 & 825.224
Stats. Implemented: ORS 825.202 & 825.224
Hist.: PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0069; PUC 9-1986(Temp), f. & ef. 8-19-86 (Order No. 86-831); PUC 12-1986, f. & ef. 10-2-86 (Order No. 86-1026); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-068-0069; MCT 3-1996, f. & cert. ef. 3-14-96

740-055-0190**Record of Receipts and Disbursements**

(1) Household goods carriers shall maintain a record of all moneys received from any source. The record shall show the date received, amount received, from whom received, number of freight bills being paid or description of service rendered for which payment is received, and any other pertinent information necessary to explain the transaction. The record shall show whether amount collected is retained as cash on hand or deposited in the bank and the account to be credited with the amount of collection.

(2) Household goods shall keep and maintain a complete and accurate record of all moneys disbursed in conducting their operations whether such disbursements are made in cash or by check:

(a) The record must show amount disbursed, a description of what the payment covers, the proper account chargeable and all essential information to identify and explain the disbursement;

(b) All bills, invoices, receipts, memoranda and papers supporting and explaining payments must be carefully filed and retained for the prescribed time.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232
Stats. Implemented: ORS 825.200, 825.202, 825.204 & 825.224
Hist.: PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0071; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-068-0071; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-055-0210**Ledger and Journal**

(1) All household goods carriers shall keep and maintain a ledger in which shall be recorded in appropriate accounts the assets, liabilities, capital, surplus, revenues, expenses, other income, other deductions and all other accounts prescribed by the Uniform System of Accounts and necessary to meet the requirements in OAR 740-055-0310 and 740-055-0320.

(2) Accounts shall be written up monthly and accruals stated on a monthly basis to permit preparation of financial exhibits from the books of record.

(3) All accounts must be closed on December 31 of each year and the profit or loss determined and stated in the books of record.

(4) All entries for which special journals have not been provided must be journalized in a general journal before posting to the ledger account. Entries must be fully explanatory and entered in sufficient detail to permit audit at any time. References to supporting papers and records must be specific and such subsidiary records and memoranda shall be filed and retained to support the entries in the general journal.

Stat. Auth.: ORS 184.616, 814.619, 823.011 & 825.232
Stats. Implemented: ORS 825.200, 825.202, 825.204, 825.224 & 825.515
Hist.: PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0075; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-068-0075; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. & cert. ef. 9-26-16

740-055-0220**Audit and Inspection of Records and Accounts of Motor Carriers**

(1) Any motor carrier must produce and make available for audit and examination at any reasonable time, within or without this state, the records, accounts, papers, reports and other documents under the carrier's control.

(2) When such records are maintained outside this state by motor carriers engaged in transportation in Oregon, the motor carrier shall reimburse the Department for all expenses incurred by the Department in making audits and examinations of such records and accounts at their out-of-state location.

(3) Records maintained by motor carriers outside this state may be presented at a designated place in this state for audit and examination. This may be done at the request of the carrier or by direction of the Department. Such records must be presented by a representative of the carrier who can explain all entries and records and be responsible for their safekeeping.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.202

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0080; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0080

740-055-0320**Carriers of Household Goods**

For purposes of reporting annual financial information, the Department requires all intrastate for-hire motor carriers of household goods to complete and submit to the Department ODOT Form 735-9208. Operations conducted pursuant to ORS 825.240 are not subject to the reporting requirement in this rule.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.202 & 825.234

Hist.: PUC 160, f. 2-26-74, ef. 1-1-75 (Order No. 74-108); PUC 171, f. & ef. 12-22-75 (Order No. 75-1028); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-038-0107; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); PUC 3-1991, f. & cert. ef. 1-16-91 (Order No. 90-1916); PUC 16-1994(Temp), f. 12-28-95, cert. ef. 1-1-95 (Order No. 94-2077); PUC 1-1995(Temp), f. & cert. ef. 2-15-95 (Order No. 95-186); PUC 10-1995, f. & cert. ef. 8-30-95; (Order No. 95-882); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0107; MCT 4-1997, f. & cert. ef. 7-15-97; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 8-2005, f. & cert. ef. 12-14-05

740-055-0400**Financial Report Forms Required**

Financial reports will be submitted on the most current form adopted and prescribed by the Department.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.202

Hist.: PUC 132, f. & ef. 3-29-65 (Order No. 41035); PUC 137, f. & ef. 4-13-66 (Order No. 42600); PUC 142, f. & ef. 3-27-67 (Order No. 43543); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 160, f. & ef. 2-26-74 (Order No. 74-108); PUC 174, f. 3-18-76, ef. 3-20-76 (Order No. 76-109); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-038-0141; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0141

740-055-0500**Motor Carriers of Property**

Except as modified by ORS 825.515, "Preservation of Records," contained in 49 CFR, Parts 1220-1239, revised as of October 1, 2015, a copy of which is available from ODOT Motor Carrier Transportation Division, is adopted and prescribed by the Department for all for-hire motor carriers of property.

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

Stat. Auth.: ORS 823.011, 825.202, 825.232 & 825.515

Stats. Implemented: ORS 825.202, 825.232 & 825.515

Hist.: PUC 20, f. 7-3-58, ef. 1-1-36 (Order No. 3143); PUC 48, f. 7-3-58, ef. 9-1-56 (Order No. 34695); PUC 50, f. 7-3-58, ef. 7-1-50 (Order No. 24910); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 132, f. & ef. 3-29-65 (Order No. 41035); PUC 135, f. 5-9-65, ef. 5-15-65 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0151; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); PUC 3-1991, f. & cert. ef. 1-16-91 (Order No. 90-1916); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-068-0151; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 7-2000, f. 12-15-00 cert. ef. 1-1-01; MCTD 3-2016, f. &

cert.

9-26-16

ef.

DIVISION 60**TRANSPORTATION OF HOUSEHOLD GOODS****740-060-0010****Information for Shippers and General Information Bulletin for Moving Household Goods in Oregon**

(1) As used in division 60 rules, the term shipper refers to the owner of the household goods, or the owner's representative. The term carrier refers to the authorized intrastate for-hire motor carrier of household goods.

(2) Each carrier must give every prospective shipper an information bulletin titled General Information Bulletin for Moving Household Goods in Oregon ODOT form #735-9943.

(3) The text of the information bulletin, "General Information Bulletin for Moving Household Goods in Oregon," ODOT form # 735-9943 includes the following information:

- (a) Estimates;
- (b) Changes to estimates;
- (c) Underestimates;
- (d) Bills of Lading;
- (e) Inventories;
- (f) Packing, delivery and inspection;
- (g) Storage needs;
- (h) Ready to assemble furniture;
- (i) Levels of protection and valuation options for household goods;
- (j) Payment to mover;
- (k) Loss or damage claims; and
- (L) Complaints.

(4) The Mandatory Receipt must contain the following statements:

(a) Acknowledgement of receipt of General Information Bulletin for Moving Household Goods in Oregon;

(b) Final charges for services are based on rates that have been approved by ODOT and published in a tariff regardless of any estimate of service provided by the carrier.

(5) Each carrier must request the shipper to sign and date a Mandatory Receipt to acknowledge receipt of the information bulletin. The signed copy of the Mandatory Receipt must be retained for three years as a part of the carrier's documentation for the move.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.202, 825.204, 825.224

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-39-005; PUC 9-1986(Temp), f. & ef. 8-19-86 (Order No. 86-831); PUC 12-1986, f. & ef. 10-2-86 (Order No. 86-1026); PUC 17-1987, f. & ef. 12-31-87 (Order No. 87-1309); PUC 5-1994, f. & cert. ef. 2-16-94 (Order No. 94-298); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-069-0005; MCT 4-1997, f. & cert. ef. 7-15-97; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0020**Inventories**

(1) An inventory of items will be prepared when requested by the shipper or when household goods are received into storage in transit or permanent storage.

(2) The carrier must list any damage or unusual wear.

(3) Shippers must be allowed to note in writing on the inventory documents any disagreement with entries regarding damage or unusual wear noted by the carrier.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.202, 825.204, 825.224

Hist.: PUC 9-1986(Temp), f. & ef. 8-19-86 (Order No. 86-831); PUC 12-1986, f. & ef. 10-2-86 (Order No. 86-1026); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-069-0006; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0035**Cargo Insurance and Valuation Declaration**

(1) A carrier is liable for loss or damage to household goods when the property is in its care, custody or control. The required minimum level of cargo insurance coverage is specified in OAR

740-040-0030. The level of liability assumed by the carrier is altered based on the selection of the valuation protection option chosen by the shipper.

(2) Prior to beginning any regulated household goods move, a carrier must ensure that the shipper has selected a valuation option. The carrier must provide the shipper with information that clearly explains the different valuation options offered, the charges for each option, and an example comparing the total cost of a move with Full Replacement Cost Protection and with Released Value Protection.

(3) All household goods carriers must offer at least the following valuation protection options:

(a) Released Value: When the shipper elects the no-additional-cost Released Value option, claims for damage or loss will be settled based on the weight of the article multiplied by the price per pound. If a shipper fails to state a declared value in writing and the shipment is accepted by the carrier, the shipment will be estimated calculating the weight of the shipment as seven pounds per cubic foot of space utilized;

(b) Replacement Cost Protection: The shipper must declare a lump sum value of the shipment. Under this option, if any article is lost, destroyed, or damaged while in the carriers custody, the carrier will, at its option, guarantee either replacement of articles lost or damaged, reimbursement for full replacement cost, or satisfactory repairs.

(4) If for any reason, the carrier fails to obtain the shipper's written confirmation of valuation option selection on the bill of lading, and the shipment is accepted for transport, the carrier will provide Replacement Cost Protection at the shipper expense.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.202, 825.204, 825.224

Hist.: MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0040

Estimates of Charges

(1) Estimates must be prepared by the carrier when requested by the shipper. Estimate forms must be retained for three years with the freight bill for inspection by the Department's staff. Estimates must be:

(a) Free of charge;

(b) Provided in writing;

(c) Given only after visual inspection of household goods to be shipped;

(d) Non-binding; final charges must be based upon tariff rates filed with the Department; and

(e) Accompanied by an addendum when additional services are added and not included in the estimate. Addendum must be signed by the shipper.

(2) Underestimates for service. A carrier must not provide underestimates for service. An underestimate occurs when the charge assessed by the carrier exceeds the original estimate and addendum estimates for service by more than 10 percent.

(3) When full or partial payment is due upon delivery and the total tariff charges exceed estimated and addendum charges by more than 10 percent, a shipper may request deferment of the excess amount for 15 days. The shipper must pay the estimated charges plus 10 percent at the time of delivery. The carrier must relinquish possession of the shipment, when the estimated charges plus 10 percent is received. The 15-day extension does not include Saturdays, Sundays, and holidays as specified in the carrier's tariff.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.202, 825.204 & 825.224

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-039-0010; PUC 9-1986(Temp), f. & ef. 8-19-86 (Order No. 86-831); PUC 12-1986, f. & ef. 10-2-86 (Order No. 86-1026); PUC 17-1987, f. & ef. 12-31-87 (Order No. 87-1309); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0010; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 4-1997, f. & cert. ef. 7-15-97; MCTD 2-2013(Temp), f. 1-17-13, cert. ef. 1-18-13 thru 7-15-13; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0045

Criminal Background Checks

(1) Each carrier 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) Carriers 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."

(c) Criminal background checks must be completed prior to employment of Subject Individual and must be completed every three years.

(2) Criminal Background Check means a public record of court actions regarding the Subject Individual covering each state the Subject Individual has resided in the last five years.

(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 must include a list of offenses that the Subject Employee has been convicted in a court of law and the date of each conviction.

(3) Subject Employers must certify in their annual report due April 1 of each year that they are in compliance with all rules of the 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.

(4) 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 of any felony within the five years preceding the criminal background check. In addition to any felony conviction, Subject Individuals may not have been convicted of 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.

(5) Criminal background checks required by this rule must be retained by the carrier for at least three years from the date obtained.

Stat. Auth.: 184.616, 184.619, 823.011, 825.232

Stats. Implemented: 825.202, 825.204, 825.224, 825.325

Hist.: MCTD 2-2009, f. & cert. ef. 9-29-09; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0055

Additional Fees

Each carrier must pay an annual fee of \$100 or .1 percent of its gross revenue derived from Oregon intrastate household goods moving activity in the preceding year, whichever is greater. The fee is due by April 1 and must be reported on a form provided by the Department. A household goods carrier that fails to pay the fee required by the due date will be subject to suspension under ORS 825.139.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.139, 825.247

Hist.: MCTD 9-2003(Temp), f. 12-12-03, cert. ef. 1-1-04 thru 6-28-04; MCTD 3-2004, f. 6-24-04, cert. ef. 6-29-04; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0060**Signed Receipt for Shipment — Release Prohibited**

Shipping documents or other records signed by the shipper to acknowledge delivery must not include language that releases or discharges the carrier from liability. A statement that the property has been received in apparent good condition except as noted may be included on the shipping documents.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 823.101, 825.224

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-039-0020; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-069-0020; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0070**Claims for Loss or Damage**

(1) For a shipper to be compensated for loss or damage, a written claim must be filed with the carrier or carrier's agent within three months of the date of delivery.

(2) Acknowledgment of claims. Written claims for loss or damage to household goods must be acknowledged by the carrier in writing within 30 calendar days of the receipt of the claim. The carrier must record the date and time the claim was received.

(3) Handling by carrier. A carrier must pay, decline, or make a firm compromise settlement offer in writing to the shipper within 120 days from the date the claim was received. If the claim is not be resolved within 120 days from the date the claim was received, the carrier must inform the shipper and the Department of the reason in writing. Written communication with the shipper and the Department of reasons why the claim is not resolved must be provided each succeeding 60-day period while the claim remains unresolved.

(4) Register of loss and damage claims. Every carrier must maintain a freight claim register. The claim register must show each cargo loss and damage claim received, the claim number, date, and amount; the waybill or expense bill number and date; name of claimant; kind of commodity; date claim was paid; total amount paid; or date claim was disallowed and reasons; amount of salvage recovered, if any; amounts reimbursed by insurance companies, connecting carriers, or others, and the amount absorbed by the carriers. Claim registers and supporting documentation must be retained for three years.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 823.101, 823.103, 825.202

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-039-0030; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0030; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0080**Determination of Weight for Weight Distance Moves**

(1)(a) A carrier subject to rates based on weight must determine the gross weight, tare weight and net weight or constructive weight of a shipment. A carrier transporting shipments of household goods subject to rates based on the weight of shipment must determine the tare weight of each vehicle used by having it weighed prior to the transportation of each shipment, with the driver for the proposed trip but without the crew. The weight must be determined by a certified weighmaster or on a certified scale, and the fuel tanks on the vehicle must be full and the vehicle must contain all pads, chains, dollies, hand trucks, and other equipment needed in the transportation of shipments to be loaded, and the weight must then be entered on the bill of lading. After the vehicle has been loaded, it must be weighed, with the same driver and equipment but without the crew, at the certified scale nearest to the point of origin of the shipment, and the net weight of the shipment must be obtained by deducting the tare weight from the gross weight, and both the gross and net weights must be entered on the bill of lading. Where no certified scale is available at the point of origin, the gross weight must be obtained at the nearest certified scale either in the direction of the movement of the shipment, or in the direction of the next pickup or delivery in the case of part loads.

In the transportation of part loads, this rule must apply in all respects, except that the gross weight of a vehicle containing one or more part loads must be used as the tare weight of such vehicle as to part loads subsequently loaded. Also, the person paying the freight charges, or his representative, at the request of either, must be permitted, without charge, to accompany the carrier to the weighing station in his own vehicle and to observe the weighing of his shipment after loading. The carrier must use a certified scale which will permit the shipper to observe the weighing of his shipment without causing delay; or

(b) If no certified scale is available at origin at any point en route or at destination, a constructive weight, based upon 7 pounds per cubic foot of properly loaded van space, may be used, provided the shipper is notified prior to unloading that this method will be used to determine weight and charges on the shipment.

(2) Obtaining weight tickets. The carrier must obtain a weight ticket signed by the weighmaster for each weighing required under this rule, with tare and gross weights evidenced by separate tickets, and the driver must enter the number of the bill of lading accompanying the shipment involved. No other additions or alterations will be made on the ticket. True copies must be attached to the receipt or bill of lading accompanying the shipment, and retained in the carrier's file for three years. A true copy of each weight ticket pertaining to a shipment must be given to the shipper at the weighing station if the shipper is present or at delivery of the shipment if the shipper is not present at the weighing. A part load for any one shipper not exceeding 1,000 pounds may be weighed on a certified scale prior to being loaded on the vehicle. Additionally, an automobile or other article weighing in excess of 500 pounds which is mounted on wheels may be weighed separately by obtaining the weight of such article on a certified scale prior to loading on the vehicle to be used in its transportation.

(3) Minimum weight shipments. Before accepting a shipment of household goods for transportation which appears to be subject to the minimum weight provisions of the carrier's tariff, the carrier must advise the shipper of the minimum weight provisions.

(4) Reweighing of shipment. The carrier must reweigh the shipment, if the shipper requests a reweigh prior to the delivery date of the shipment. The carrier must inform the shipper, within a reasonable time prior to the gross reweighing, of the tariff charges and the location of a certified scale which will be used. The carrier, without altering or deleting the initial weights, will write on the bill of lading the gross, tare and net weights on reweigh, and must give the shipper, or his representative, original or true copies of the weight tickets on reweigh in the same manner as prescribed for initial weighing. The lower of the two net scale weights must be used for determining the applicable charges. Charges for reweighing will be determined by tariff rates.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.202

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-039-0040; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0040; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 2-2013(Temp), f. 1-17-13, cert. ef. 1-18-13 thru 7-15-13; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0085**Hourly Rate Local Moves**

A carrier must apply a local hourly rate when a move is wholly within a city limit or commercial zone specified in the carrier's ODOT approved local cartage authority. The Department may approve an extension to the radius of mileage for a commercial zone when approving a tariff.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.202

Hist.: MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0090**Hourly Rate Distance Moves**

If a carrier elects to provide an hourly distance rate, as specified in its tariff, the hourly rate charged for the transit time to and from the move locations are limited to the following;

(1) The calculation of time it takes for a carrier to travel from the terminal location to the origin of the move must be determined by Google Map miles or a truck routing and mileage software pro-

gram using the address to address locations to establish the estimated time of travel to be charged to the shipper.

(2) The return trip from the destination of the move to the terminal location must be determined by Google Map miles or a truck routing and mileage software program using the address to address locations to establish the estimated time of travel to be charged to the shipper.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.202

Hit.: MCTD 5-2013, f. & cert. ef. 6-20-13

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 regulations, pursuant to ORS 825.240. A carrier that performs local cartage moves within the cities specified in Exhibit 1 must obtain a permit in accordance with ORS 825.127.

[ED. NOTE: Exhibits referenced are available from the agency

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.127, 825.240

Hist.: PUC 5-1978, f. & ef. 12-20-78 (Order No. 78-924); Renumbered from 860-039-0050; PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0050; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 2-2009, f. & cert. ef. 9-29-09; MCTD 5-2013, f. & cert. ef. 6-20-13

740-060-0110

Commercial Zones

(1) The territorial limits of the commercial zone of each designated city includes the following areas:

(a) Astoria, Oregon includes all points located within the incorporated city limits of Astoria, Hammond, and Warrenton and within one (1) airmile distance of their combined city limits;

(b) Coos Bay, Oregon includes all points located within the incorporated city limits of Coos Bay, Eastside, and North Bend and within one (1) airmile distance of their combined city limits;

(c) Eugene, Oregon includes all points located within the incorporated city limits of Eugene and Springfield, Oregon, and within a three (3) airmile distance of their combined city limits;

(d) Klamath Falls, Oregon includes all points located within the incorporated city limits of Klamath Falls, Oregon, and within four (4) airmile distance of the city limits;

(e) Medford, Oregon includes all points located within the incorporated city limits of Central Point, Jacksonville, Medford, Phoenix, and the unincorporated community of White City. The Medford Commercial Zone also includes other points located and within an eight (8) airmile radius of the intersection of I-5 and Crater Lake Highway (OSH 62);

(f) Salem, Oregon includes all points located within the incorporated city limits of Salem and Keizer. The Salem Commercial Zone also includes other points within a three (3) airmile distance of the city limits of Salem;

(g) Portland, Oregon includes all points located within the incorporated city limits of Portland, Oregon, and within a ten (10) airmile distance of said city limits; and includes all of the area located within the incorporated limits of any city any part of which is located within a ten (10) airmile distance of the city limits of Portland.

(2) Local Cartage operating authority of household goods carriers at any city located within a commercial zone as defined in subsections (1)(a) to (g) of this rule includes transportation of household goods between all points located within the territorial limits of the Commercial Zone.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232

Stats. Implemented: ORS 825.234, 825.240

Hist.: PUC 5-1978, f. & ef. 12-20-78 (Order No. 78-924); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-039-0060; PUC 16-1983, f. & ef. 12-28-83 (Order No. 83-863); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0060; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 5-2013, f. & cert. ef. 6-20-13

DIVISION 65

ELECTRONIC TRUCK TRACKING REPORTS.

740-065-0000

Purpose

These rules are adopted by the Oregon Department of Transportation to:

(1) Promote the development and use of the latest technologies to improve the operating efficiencies of the state and trucking industries in Oregon;

(2) Promote the use and development of automated electronic systems operated by third party agents that accurately and reliably transmit, process and store operating data from motor carrier vehicles that allow the generation of tax reports and transmission of taxes and fees for the use of highways under Oregon Highway Use Tax, ORS 825.450, et seq.; and

(3) Specify the procedures and requirements for the third party agents that operate the automated electronic systems and the motor carriers that choose to participate in this voluntary program.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232, 825.450, 825.474, 825.480 & 825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0005

Definitions

As used in these rules, unless the context requires otherwise:

(1) "Assessment" means an assessment for the highway use tax.

(2) "Department" means the Oregon Department of Transportation.

(3) "Electronic Highway Use Tax" or "EHUT" means taxes and fees payable to the Department under ORS Chapters 818, 825 and 826 for the use of public highways.

(4) "EHUT vehicle" means a motor vehicle equipped with technology provided by an electronic system provider.

(5) "EHUT information" means:

(a) Information that is generated or collected by an electronic system provider for any purpose relating to the provision of services of reporting taxes and fees; and

(b) Information relating to:

(A) The identity and business address of a motor carrier which is operating a vehicle;

(B) The distance travelled by a motor vehicle;

(C) The location of a motor vehicle for the purpose of verifying the taxable status of the distance travelled; and

(D) A fault with an electronic distance recorder or tampering (including suspected tampering) with an electronic distance recorder.

(6) "Electronic distance recorder" means an electronic device that conforms to published Departmental requirements and:

(a) Records in miles;

(b) Is of a nature and accuracy sufficient to provide a reliable record of the distance travelled by the Electronic Highway Use Tax (EHUT) vehicle; and

(c) Is an electronic distance recorder provided by an electronic system provider.

(7) "Electronic system" means a system involving the use of electronic equipment and other technology situated in, or fitted to, an EHUT vehicle and that has the capacity to measure, monitor, collect, store, display, analyze, communicate, and report information relating to:

(a) The identity, distance travelled by, and location of the EHUT vehicle; and

(b) The integrity, security, and normal operation of the system.

(8) "Electronic system provider" means a person or entity (primary provider, not their agent) that provides electronic distance recorders conforming to Departmental published standards.

(9) "Fail," in relation to an electronic system, means:

(a) A failure of the system to perform as intended in terms of accuracy, security, reliability, verifiability, or any other performance indicator; and

(b) Includes a permanent failure, a temporary failure, or the failure of the system on a particular occasion or in particular circumstances.

(10) “Motor carrier” and “Carrier” have the meaning given in ORS 825.005(1), (7), and (11).

(11) “Motor vehicle” has the meaning given in ORS 825.005(9).

(12) “Reading,” in relation to a distance recorder, means the reading of distance recorded on the distance recorder at any particular time.

(13) “Records,” in relation to an EHUT vehicle, mean the following documents that relate to the use and maintenance of the vehicle or vehicles:

(a) Daily distance records as prescribed in OAR 740-055-0120; and

(b) Fuel invoice records as prescribed in OAR 740-055-0110; and

(c) Daily records as prescribed in OAR 740-200-0010 and OAR 740-200-0040; and

(d) EHUT information as defined in these rules.

(14) “Public highway” has the meaning as defined in ORS 825.005(14).

(15) “Vehicle inspection” means an inspection of an EHUT vehicle for fitness.

(16) “Vehicle inspector” has the meaning defined in ORS 810.560.

(17) Vehicle management system, in relation to an EHUT vehicle, means an electronic control system situated in the vehicle that:

(a) Receives inputs from the engine of the EHUT vehicle; or

(b) May receive inputs from other sources or systems of the EHUT vehicle; or

(c) Controls one or more functions of the EHUT vehicle; or

(d) Stores data relating to the operation of the EHUT vehicle.

(18) Subscribing motor carrier means a motor carrier that owns or operates a motor vehicle that is fitted with a properly operating electronic distance recorder supplied by an electronic system provider.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 818.225, 825.137, 825.139, 825.232, 825.490, 826.005 & 826.007

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0010

General Provisions

(1) Any motor carrier that has an EHUT vehicle equipped with an electronic distance recorder, as specified in sections (2) and (3), that is properly working and provides an accurate and reliable record relating to the identity, distance travelled by, and the location of the EHUT vehicle may file tax reports and transmit taxes for the Oregon Highway Use Tax using an electronic system. Mixed fleets containing both EHUT equipped vehicles and non-EHUT equipped vehicles may also file tax reports and transmit taxes for Oregon Highway Use Tax using an electronic system provider if at least 50 percent of the fleet are equipped with EHUT equipment and the provisions of section (1) are otherwise met. Electronic system providers must identify transmitted data originating from non-EHUT equipped vehicles.

(2) The EHUT vehicle must be fitted with an electronic distance recorder that:

(a) Is provided by an electronic system provider;

(b) Is fitted in accordance with these rules; and

(c) Accurately records the distance travelled by the EHUT vehicle at all times.

(3) A motor carrier is not eligible to file tax returns under these rules if the motor carrier:

(a) Operates the EHUT vehicle with an electronic distance recorder that has not been provided by an electronic system provider;

(b) Operates the EHUT vehicle with an electronic distance recorder not fitted to the motor vehicle in accordance with these rules;

(c) Operates the EHUT vehicle with an electronic distance recorder fitted to the vehicle that is not accurately recording the distance travelled by the motor vehicle;

(d) Wilfully alters, damages or tampers with an electronic distance recorder fitted to a EHUT vehicle, or any equipment that is required for the operation of the electronic distance recorder fitted to the vehicle, in a manner that affects, or is likely to affect, the accuracy of the electronic distance recorder;

(e) Operates the EHUT vehicle on a taxable road if the motor carrier knows, or should have known, that the electronic distance recorder fitted to the EHUT vehicle has been modified or repaired, except as authorized by these rules; or

(f) Modifies or attempts to modify or repair, any part of an electronic distance recorder fitted to the EHUT vehicle except as provided by these rules.

(4) Taxes for an EHUT vehicle are based on the declared combined weight of the EHUT vehicle in accordance with the weight group tax rates shown in the tables set forth in ORS 825.476. However, whenever a motor carrier operates an EHUT vehicle at a weight higher than its declared combined weight, the motor carrier must report and pay at the heaviest weight all miles operated in that configuration for the entire reporting period.

(5) The tax status of an EHUT vehicle operating under flat fees is determined by the weight of the vehicle, the commodity being transported, the purpose of the transportation and highways traveled. The tax status of the EHUT vehicle’s operation will be determined by the motor carrier pursuant to OAR 740-055-0035 and entered in the electronic system for that operation. Any changes in the tax status of the EHUT vehicle will also be determined by motor carrier pursuant to OAR 740-055-0035 and entered in the electronic system.

(6) If a motor carrier provides information that the motor carrier knows, or should have known, is incorrect regarding the declared weight or actual combined weight of an EHUT vehicle the motor carrier will be assessed taxes on the EHUT vehicle based on the higher combined weight, in addition to interest and penalties.

(7) Any motor carrier that operates an EHUT vehicle under these rules agrees that when the electronic system is properly working, the system’s records related to the identity, distance traveled by, and the location of the EHUT vehicle, may be used in calculating tax reports.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 319.020, 319.530, 825.017, 825.474 & 825.480

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0015

Payment of Highway Use Taxes

All provisions of ORS Chapters 818, 825 and 826 apply to operations of EHUT vehicles.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 818.225, 825.494, 825.496, 825.500, 826.005 & 825.007

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0020

Electronic System Providers

(1) The Department may, upon application, allow an electronic system provider to participate in the automated electronic reporting system.

(2) Before allowing participation under section (1), the Department must be satisfied that:

(a) The applicant’s electronic system is secure and reliable; and

(b) Any electronic distance recorder provided by the applicant:

(A) Is fit for the purpose; and

(B) Meets any requirements specified in these rules.

(3) Allowance of participation of an electronic system provider is conditional and:

(a) May be on the terms and conditions imposed by the Department; and

(b) May be modified or revoked by the Department upon written notice to the participating electronic system provider.

(4) The Department will publish standards to assist electronic system providers in complying with the requirement in paragraph (2)(b)(A) for an electronic distance recorder to be fit for the purpose.

(5) An electronic system provider who knows or has reasonable grounds to suspect that any electronic system has been tampered with must report the matter to the Department in writing within five working days of becoming aware of the suspected tampering.

(6) If an electronic system provider makes a report to the Department under section (5), the electronic system provider must not disclose to any person other than the Department:

(a) That the electronic system provider has made the report; or

(b) Any information from which the person to whom the disclosure is made could reasonably infer that the electronic system provider has made the report.

(7) In this rule, tamper, in relation to an electronic system, means:

(a) To engage in conduct that results in, or is likely to result in:

(A) The system being altered;

(B) The system or any part of the system being used in a way that is not in accordance with the terms and conditions of the electronic system provider's approval; or

(C) Any EHUT information that the system uses internally being altered.

(b) To engage in conduct with the intention of causing the electronic system to:

(A) Fail to collect information; or

(B) Fail to correctly record distances travelled by a vehicle; or

(C) Fail to correctly store or report information.

(8) An electronic system provider must collect and store all information regarding a motor carrier's operations of an EHUT vehicle for the periods required by OAR 740-055-0120, OAR 740-200-0010 and OAR 740-200-0040.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.212, 825.232, 825.474, 825.480, 825.490 & 825.515

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0025

Duties of Electronic System Providers Relating to Collection of EHUT Information

(1) An electronic system provider must collect and store all EHUT information.

(2) An electronic system provider must:

(a) Clearly identify the EHUT information it collects; and

(b) Keep the EHUT information separate from other commercial information.

(3) For purposes of this rule, "other commercial information" means information relating to any telematics services or location-based services, including associated communication services that are provided to the transport operator by an electronic system provider that are not related to EHUT information.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232, 825.474, 845.480 & 825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0030

Duties of Electronic System Provider Relating to Use and Disclosure of EHUT Information

(1) An electronic system provider must not use or disclose EHUT information collected under a motor carrier except as provided by these rules or any other enactments.

(2) An electronic system provider must take reasonable steps to ensure that the EHUT information it collects is protected against unauthorized access or use, misuse, loss, modification, or unauthorized disclosure.

(3) Upon request from a motor carrier an electronic system provider must disclose EHUT information relating to the motor

carrier's EHUT vehicles to the motor carrier or to any other party authorized by the motor carrier to receive the EHUT information.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232, 825.474, 845.480 & 825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0035

Information from Vehicle Management System

The Department may take information from the vehicle management system for the purpose of issuing an assessment or for other matters related to the regulation of the EHUT vehicle. The Department may:

(1) Apply an electronic device to an EHUT vehicle to download information from the vehicle's vehicle management system; and

(2) Retain information taken from the vehicle management system for any purpose related to the operation of the EHUT vehicle.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232, 825.474, 825.480 & 825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0040

Motor Carriers Must Make and Retain Records

(1) A motor carrier must:

(a) Keep records in relation to each EHUT vehicle that the motor carrier owns or operates; and

(b) Retain those records for the purposes of this rule.

(2) Motor carriers must maintain records as defined in OAR 740-065-0005 that show operations of any vehicles in accordance 740-055-0120, 740-200-0010 and 740-200-0040.

(3) Motor carriers must produce the EHUT records for inspection and copying if required by the Department.

(4) A motor carrier that fails to provide required information to the Department for the purposes of an assessment or that is related to the operation of an EHUT vehicle may no longer be eligible to participate in the automated electronic reporting system. Readmission to the automated electronic reporting system will be conditioned upon satisfactorily responding to Department information requests.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232, 825.474, 845.480 & 825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

740-065-0045

Inspection of Records or Other Information

(1) For the purpose of issuing an assessment under these rules, or otherwise ascertaining whether the provisions of this rule have been, or are being, complied with by any motor carrier to whom these rules apply, the Department may require that motor carrier to produce for inspection any records or other information in that motor carrier's possession or control including records required to be kept by a motor carrier that are relevant to the use and maintenance of an EHUT vehicle.

(2) The Department may, in relation to any records or other information produced under section

(a) Extract information from records; and

(b) Make copies of the records or other information at the place of inspection; and

(c) Remove the records or other information if it is impracticable to copy the records or other information at the place of inspection.

(3) If the Department removes any records or other information under subsection (2)(c), the Department must:

(a) Issue a receipt for the records or other information to the person from whom the records or other information was taken; and

(b) Return the records or other information as soon as practicable; and

(c) For as long as the records or other information is held by the Department, allow the person from whom the records or other information was taken, at any reasonable time, to inspect, and

obtain copies of, the records or other information at the premises

where the records or other information is held.

740-065-0050

Due Date of Taxes, Fees, and Reports

(1) The electronic system provider must electronically submit tax reports required under ORS 818.225, 825.480, 825.490 and 825.492 for each subscribing motor carrier on or before the statutorily defined due dates. A subscribing motor carrier that remits taxes and fees to the electronic system provider on or before the statutorily defined due date will be deemed to have met statutory due date for such taxes and fees.

(2) The electronic system provider must electronically convey payments, along with the detail by motor carrier of taxes and fees received from subscribing motor carriers to the Department no later than five (5) business days following the statutorily defined due dates.

(3) The subscribing motor carrier's tax liability is not satisfied until the electronic service provider has transmitted the funds to the Department.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 818.225, 825.137, 825.139, 825.232, 825.480 & 825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

DIVISION 100

**VEHICLES, DRIVER, EQUIPMENT: EQUIPMENT
REQUIRED AND CONDITION OF VEHICLES**

740-100-0010

Adoption of Federal Safety Regulations

(1) Except as provided in section (4) of this rule, the rules and regulations adopted by the United States Department of Transportation contained in Title 49, Code of Federal Regulations (CFR), Parts 380 (Special Training Requirements), 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards Requirements and Penalties), 385 (Safety Fitness Procedures), 387 (Minimum Levels of Financial Responsibility for Motor Carriers), 390 (Federal Motor Carrier Safety Regulations: General), 391 (Qualification of Drivers), 392 (Driving of Motor Vehicles), 393 (Parts and Accessories Necessary for Safe Operation), 395 (Hours of Service of Drivers), 396 (Inspection, Repair and Maintenance), 398 (Transportation of Migrant Workers), 399 (Employee Safety and Health Standards) and all amendments thereto in effect April 1, 2016, are adopted and prescribed by the Department of Transportation (ODOT) to be observed by carriers conducting operations in interstate commerce, subject to ORS Chapter 825.

(2) The provisions of section (1) of this rule as adopted are prescribed by the Department to be observed by carriers conducting operations in intrastate commerce, subject to ORS Chapter 825, except:

(a) Relating to Part 385:

(A) The provisions of Part 385.1(b), 385.13(b), 385.13(c), 385.13(d)(3), 385.301 through 385.337 and Appendix A to Part 385 do not apply to a motor carrier operating exclusively in intrastate commerce.

(B) With reference to Part 385.13(a), 385.19(c) and 385.19(d), current intrastate safety rating information is available from ODOT only by telephone at (503) 378-6963.

(C) With reference to Part 385.15 and 385.17, requests for administrative review of an intrastate safety rating or requests for a change to a proposed or final intrastate safety rating based on corrective actions must be submitted in writing to the ODOT Motor Carrier Transportation Division, 3930 Fairview Industrial Drive SE, Salem OR 97302.

(D) With reference to Appendix B of Part 385, a final intrastate safety rating will be determined by the Department and the motor carrier to whom the rating applies will be notified in writing of its intrastate safety rating.

(E) In addition to the violations described in the List of Acute and Critical Violations in Appendix B of Part 385, the Department will include the following violations in a determination of an intrastate or an interstate safety rating:

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.232, 825.474, 845.480 &

825.490

Hist.: MCTD 7-2014, f. & cert. ef. 9-22-14

(i) Financial responsibility requirements in OAR 740-040-0010 (critical) and 740-040-0020 (acute); and

(ii) Intrastate drivers hours-of-service requirements found in OAR 740-100-0010(2)(i) (critical).

(b) The provisions of Part 387 will apply to intrastate motor carriers only when transporting hazardous materials, hazardous substances or hazardous wastes.

(c) With reference to Part 390.21, external identification requirements do not apply to vehicles operated exclusively in intrastate private carriage provided that neither the gross vehicle weight, the gross vehicle weight rating, the gross combination weight or the gross combination weight rating exceeds 26,000 pounds, except those vehicles transporting hazardous materials of a type or quantity requiring placarding or passenger vehicles designed or used to transport more than 15 passengers including the driver.

(d) The rules in Part 391.11(b)(1) regarding the minimum age for a commercial motor vehicle operator do not apply to a driver engaged in intrastate commerce. A driver engaged in intrastate commerce must be at least 18 years old.

(e) The rules in Part 391 (except Part 391.11(b)(2), English Speaking Driver, Part 391.11(b)(5), Valid Operator's License and Part 391.15, Disqualification of Drivers) do not apply to a driver who is employed by a private carrier and:

(A) Does not transport hazardous materials of a type or quantity requiring the vehicle to be marked or placarded in accordance with Title 49, CFR, Part 177.823, and drives a motor vehicle with a gross vehicle weight, gross vehicle weight rating, gross combination weight or gross combination weight rating of 26,000 pounds or less; or

(B) Operates a passenger vehicle designed or used to transport fewer than 16 passengers, including the driver.

(f) Notwithstanding Parts 391.41 to 391.49 (Subpart E — Physical Qualifications and Examinations) the Department may issue a waiver of physical disqualification to a commercial vehicle driver who has met the conditions established by the Driver and Motor Vehicle Services Division.

(g) With reference to Part 395.1(e)(1), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to exceed 12 hours driving following ten consecutive hours off-duty;

(h) With reference to Part 395.1(g), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(i) With reference to Part 395.1(e)(2) and Part 395.3, a motor carrier conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(C) Drive for any period following 70 hours on-duty in any seven consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week, however, any period of seven consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours which must include two periods from 1 a.m. to 5 a.m. and may only be used once per week; or

(D) Drive for any period following 80 hours on-duty in any eight consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week, however, any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours which must include two periods from 1 a.m. to 5 a.m. and may only be used once per week.

(j) The provisions of subsections (g) through (i) of this section are not applicable to the transportation of hazardous materials of a type or quantity requiring placarding. A motor carrier transporting hazardous materials of a type or quantity requiring placarding must comply with Part 395.

(3) The provisions of Part 386.83(a)(1) and Part 386.84(a)(1), related to sanctions for failure to pay civil monetary penalties are adopted for operations conducted in intrastate commerce and apply to penalties and sanctions found in ORS Chapter 825, pursuant to the provisions of ORS Chapter 183.

(4) The intracity operation exemption adopted by the US Department of Transportation found in Part 391.62 is not adopted and prescribed.

(5) Wherever reference is made in Title 49 of the CFR as adopted by this rule to a federal entity, including but not limited to "Federal Highway Administrator," "Regional Director," "Special Agent of the Federal Highway Administration" or the "Federal Motor Carrier Safety Administration," it will be construed to mean the Oregon Department of Transportation or a person authorized by the Oregon Department of Transportation to act on its behalf.

(6) Copies of the federal regulations referred to in this rule are available from ODOT Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, www.fmcsa.dot.gov.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252

Stats. Implemented: ORS 825.210, 825.250 & 825.252

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 4-1979, f. & ef. 9-21-79 (Order No. 79-641); PUC 5-1979, f. & ef. 9-21-79 (Order No. 79-635); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Part 2, f. & ef. 6-30-80 (Order No. 80-475); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-035-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 12-1982(Temp), f. 12-20-82, ef. 1-1-83 (Order No. 82-872); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 2-1983, f. & ef. 3-1-83 (Order No. 83-117); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 19-1984, f. & ef. 9-10-84 (Order No. 84-713); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 17-1986 (Temp), f. & ef. 12-3-86; (Order No. 86-1239); PUC 2-1987 (Temp), f. & ef. 2-25-87 (Order No. 87-248); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 16-1987(Temp), f. & ef. 12-11-87 (Order No. 87-1244); PUC 4-1988(Temp), f. & cert. ef. 2-12-88 (Order No. 88-161); PUC 6-1988(Temp), f. & cert. ef. 3-9-88 (Order No. 88-818); PUC 14-1988, f. & cert. ef. 7-22-88 (Order No. 88-245); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (and corrected 1-31-91) (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 13-1992(Temp), f. & cert. ef. 9-4-92 (Order No. 92-1303); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); 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 860-065-0010; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCT 2-1997, f. & cert. ef. 5-9-97; MCT 6-1997, f. & cert. ef. 8-26-97; MCT 10-1997, f. & cert. ef. 12-22-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 2-1998, f. & cert. ef. 8-20-98; 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 5-2005(Temp), f. 9-16-05, cert. ef. 10-1-05 thru 3-29-06; 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 3-2011, f. & cert. ef. 10-26-11; 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 1-2016, f. & cert. ef. 7-27-16

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

740-100-0020

Motor Carrier Accident Notification and Reporting

(1) Definition of Reportable Accident: The term “reportable accident” means an occurrence, involving a commercial motor vehicle operated on public highways by a motor carrier subject to the provisions of ORS Chapter 825, resulting in:

(a) Fatality: The death of a human being at the scene or within 30 days as a result of the accident;

(b) Injury: A person injured as a result of the accident, and transported from the scene for medical treatment; or

(c) Towaway: Vehicles disabled as a result of the accident, and towed from the scene, or assisted in order to proceed under their own power.

(2) Immediate Notification of Fatal Accidents:

(a) When a reportable accident involves the death of one or more persons, the motor carrier will notify ODOT within 24 hours of the time they learned of the fatality. Notification should be made by telephone (503) 986-3507, or by fax (503) 986-4249, and must include the information in subsection (b) of this section.

(b) The notification required by subsection (a) of this section must include the most reliable information available to the motor carrier on the following subjects:

(A) Date and time of the accident;

(B) Location of the accident;

(C) Name of each carrier involved;

(D) Number of persons killed;

(E) Brief description of the accident; and

(F) Name and telephone number of the person reporting.

(3) Reporting of Accidents:

(a) Within 30 days after the date of a reportable accident, the motor carrier must submit the completed original of ODOT Form 735-9229 (Motor Carrier Crash Report) with Form 735-32 “Oregon Traffic Accident and Insurance Report” to the ODOT DMV Accident Reporting Unit, 1905 Lana Ave. NE, Salem OR 97314.

(b) The motor carrier must fill in the form completely and accurately with the most reliable information available to the carrier at the time the report is submitted.

(c) ODOT Form 735-9229 is attached to Form 735-32 “Oregon Traffic Accident and Insurance Report,” available at DMV offices statewide or by phone at 503-945-5098.

Stat. Auth.: ORS 823.011 & 825.252

Stats. Implemented: ORS 825.252

Hist.: PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0012; MCT 5-1997, f. & cert. ef. 8-26-97; MCTB 5-2000, f. & cert. ef. 9-21-00; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2011, f. & cert. ef. 5-27-11

740-100-0030

Mileage Registering Devices

All motor carriers must equip their motor vehicles with an odometer or other satisfactory device to record accurately the cumulative mileage traveled by the vehicle. Such device must be kept constantly in good operating order, may not be a device designed to be reset to zero, and may not be adjustable by the operator of the vehicle. Additional devices for recording trip mileage are allowed, but not in lieu of the requirements stated above.

Stat. Auth.: ORS 823.011 & 825.210

Stats. Implemented: ORS 825.210, 825.252 & 825.474

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-035-0015; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0015; MCTD 3-2008, f. & cert. ef. 7-23-08

740-100-0040

Chains/Traction Devices

All motor carriers are required to carry and use chains and traction tires as provided in OAR chapter 734 division 17 rules.

Stat. Auth.: ORS 823.011 & 825.252

Stats. Implemented: ORS 815.140

Hist.: PUC 17-1986(Temp), f. & ef. 12-3-86 (Order No. 86-1239); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0020; MCTB 5-2000, f. & cert. ef. 9-21-00

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 I 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

740-100-0060

Operation of Motor Vehicles, Out-of-Service Conditions Prohibited

(1) No motor carrier shall permit or require any person to operate nor shall any person operate a motor vehicle over the public highways of the State of Oregon unless the vehicle is free from each defect listed in OAR 740-100-0070. (North American Standard Vehicle Out-of-Service Criteria.)

(2) In addition to the requirements of section (1) of this rule, no motor carrier shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle transporting hazardous materials unless the vehicle is free from each defect listed in OAR 740-100-0080. (North American Standard Hazardous Materials Out-of-Service Criteria.)

(3) Except as provided in section (6) of this rule, in addition to the requirements of sections (1), (2) and (4) of this rule, no motor carrier shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle in violation of OAR 740-100-0090. (North American Standard Driver Out-of-Service Criteria.)

(4) In addition to the requirements of section (1) of this rule, no motor carrier shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle transporting transuranic waste and highway route controlled quantities of radioactive material as defined in 49 CFR 173.403 unless the vehicle is free from each defect listed in OAR 740-100-0085. (North American Standard Out-of-Service Criteria for Transuranic Waste and Highway Route Controlled Quantities (HRCQ) of Radioactive Material.)

(5) In addition to the requirements of section (1) of this rule, no motor carrier shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle that has been placed out-of-service for administrative violations adopted in OAR 740-100-0065 until the violation(s) are corrected.

(6) No motor carrier engaged in intrastate transportation shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle in violation of intrastate hours-of-service limits found in OAR 740-100-0010(2)(g) through (j) or rules regarding an intrastate driver operating with a Waiver of Physical Disqualification issued under OAR 735-063-0070.

(7) Each defect which exists in each applicable standard shall be deemed a separate and distinct violation of this rule.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 1-1987(Temp), f. & ef. 1-5-87 (Order No. 87-006); PUC 3-1987, f. & ef. 3-24-87 (Order No. 87-359); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1990, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0028; MCT 2-1997, f. & cert. ef. 5-9-97; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; 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

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, 2016, 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; MCTD 1-2016, f. & cert. ef. 7-27-16

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, 2016, 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 redispach.

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; MCTD 1-2016, f. & cert. ef. 7-27-16

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, 2016, 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 825.250, 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 1-2015, f. & cert. ef. 5-26-15; MCTD 3-2015, f. & cert. ef. 8-24-15; MCTD 1-2016, f. & cert. ef. 7-27-16

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, 2016, 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; MCTD 1-2016, f. & cert. ef. 7-27-16

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, 2016, 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 re-qualification 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; MCTD 1-2016, f. & cert. ef. 7-27-16

740-100-0100

Maximum Fine Schedule

(1) The Maximum Fine Schedule, published by the Commercial Vehicle Safety Alliance revised February 2011, is adopted and incorporated in this rule.

(2) Except as provided in sections (3) and (4) of this rule, the penalty for the Groups described in the Maximum Fine Schedule will have the same presumptive fine as traffic violation categories established in ORS 153.018. The corresponding Maximum Fine Schedule Groups to traffic violation categories specified in ORS 153.012 are as follows:

(a) Maximum Fine Schedule Group 1 is equal to a Class A traffic violation.

(b) Maximum Fine Schedule Group 2 is equal to a Class B traffic violation.

(c) Maximum Fine Schedule Group 3 is equal to a Class C traffic violation.

(3) Violations of OAR 740-100-0040 related to failure to carry traction devices will have a presumptive fine amount equal to a Class C traffic violation fine.

(4) Except as provided in section (3) of this rule, violations of commercial motor carrier safety regulations found in OAR 740-100, 740-0105 and 740-100-0110, not specifically addressed in the Maximum Fine Schedule will carry a presumptive fine equal to a Class C traffic violation.

(5) Copies of the Maximum Fine Schedule are available from the Commercial Vehicle Safety Alliance: 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319 or can be found at the website: <http://www.cvsa.org/members/documents/2011/Uniform%20Recommended%20Maximum%20Fine%20Schedule%20Revised%202-28-11.pdf>

Stat. Auth.: ORS 153.022, 184.616, 184.619 & 823.011

Stats. Implemented: ORS 153.012, 153.015, 153.018, 825.252, & 825.990

Hist.: PUC 4-1995, f. & ef. 6-19-95 (Order No. 95-517); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-065-0050; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 4-1999(Temp), f. 12-21-99, cert. ef. 1-1-00 thru 6-28-00; MCTB 2-2000, f. & cert. ef. 4-28-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; 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 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 6-2011, f. 12-22-11, cert. ef. 1-1-12

740-100-0120

Passenger Vehicle Drivers — Duties and Responsibilities

When motor vehicles are transporting passengers for hire the driver must admit and transport any person (including standees) tendering the established fare. However, the driver or operator may supervise the seating or other arrangement of any passenger and may, at the driver's discretion, refuse passage to any person who is intoxicated, boisterous, disorderly, using profane language, or who otherwise is incapable of proper conduct.

Stat. Auth.: ORS 183, 823 & 825

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-035-0055; PUC 5-1990(Temp), f. & cert. ef. 4-18-90 (Order No. 90-584); PUC 17-1990, f. & cert. ef. 10-15-90 (Order No. 90-1517); Renumbered from 860-065-0055, MCT 3-1996, f. & cert. ef. 3-14-96

740-100-0130

Limitations Regarding Transportation of Standees

A for-hire carrier of passengers may transport standees only if:

(1) The motor vehicle is equipped with devices specifically designed to provide stability for each standee.

(2) A standee does not block required exits or create undue crowding.

(3) No standee is transported a distance greater than 25 miles.

Stat. Auth.: ORS 183, 823 & 825

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 5-1990(Temp), f. & cert. ef. 4-18-90 (Order No. 90-584); PUC 17-1990, f. & cert. ef. 10-15-90 (Order No. 90-1517); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0056

740-100-0200

Rest Stops and Stations

Every common carrier of passengers operating in regular route scheduled service must:

(1) Make rest stops at intervals no longer than two hours forty-five minutes;

(2) Provide, or arrange for and supervise the maintenance of adequate, clean and sanitary rest room facilities at each rest stop; and

(3) Upon request of any passenger make emergency stops.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); Renumbered from 860-035-0090, PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-065-0090, MCT 3-1996, f. & cert. ef. 3-14-96

740-100-0210

Smoking Prohibited

The use of lighted tobacco in any form in any vehicle engaged in transporting passengers in regular route scheduled service is prohibited.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); Renumbered from 860-035-0095, PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-065-0095, MCT 3-1996, f. & cert. ef. 3-14-96

740-100-0220

Extra Vehicles Operating on Schedule

When two or more passenger-carrying vehicles are operated on an established schedule, and the leading vehicle or vehicles are loaded to capacity:

(1) A suitable sign must be displayed on each leading vehicle or vehicles indicating that another vehicle is following; or

(2) The driver of such leading vehicle or vehicles must clearly indicate to waiting patrons that another vehicle is following.

Stat. Auth.: ORS 823 & 825

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-86 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-035-0100; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0100

740-100-0230

Use of Trailers Prohibited

(1) Except as described in subsections (2) or (3) of this rule, a trailer or other vehicle may not be attached to a passenger carrying commercial motor vehicle without special authorization from the Department.

(2) This rule does not require special authorization for a commercial motor vehicle transporting passengers to be operated with a trailer if:

(a) The trailer does not exceed 8,000 pounds gross weight;

(b) Operations do not exceed the manufacturer's gross combined weight rating for the combination; and

(c) No passengers are allowed to be transported in the trailer.

(3) This rule does not prohibit use of semitrailer equipment specially designated for carrying passengers.

Stat. Auth.: ORS 823.011 & 825.252

Stats. Implemented: ORS 825.210 & 825.255

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-035-0105; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0105; MCTB 5-2000, f. & cert. ef. 9-21-00; MCTD 4-2012, f. & cert. ef. 4-23-12

DIVISION 105

WELDED REPAIR OF LOG TRUCK REACHES; EQUIPMENT: LOGS, POLES OR PILING

740-105-0010

General Information

Any empty trailer placed upon any truck or any empty pole trailer loaded upon any truck-tractor shall be fastened by not less than one chain, wire rope or synthetic webbing and one tensioning or locking device in such manner as to prevent it from falling, rolling or sliding off the truck or truck-tractor while in transit.

Stat. Auth.: ORS 183, 469, 757, 823, 824 & 825

Stats. Implemented: ORS 825.252

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 143, f. & ef. 9-21-67 (Order No. 44070); PUC 144, f. & ef. 9-28-67 (Order No. 44075); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-036-0090; PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 8-1982(Temp), f. & ef. 7-26-82 (Order No. 82-546); PUC 13-1983, f. & ef. 11-8-83 (Order No. 83-718); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0090

740-105-0100

General

(1) Definitions. As used in this section, the following abbreviations have the following meaning:

(a) AWS, "American Welding Society";

(b) LTR, "Log Truck Reach" typically, a 9" x 7" x .188"/.250" rectangular tubing used to steer a log trailer;

(c) SMAW, "Shielded Metal Arc Welding";

(d) FCAW, "Flux Cored Arc Welding";

(e) ASTM, "American Society of Testing Materials";

(f) DC, "Direct Current."

(2) LTR Repairs. Welded repair(s) of log truck reaches may only be accomplished in accordance with OAR 740-105-0100 through 740-105-0270.

(3) Welder certification. Maintenance personnel who perform welding services to effect repairs of a LTR must be certified to the **AWS Structural Welding Code D1.1., 1992.**

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

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); Renumbered from 860-066-0100, MCT 3-1996, f. & cert. ef. 3-14-96

740-105-0110

Joint Design

(1) Complete information recording location, type, size, and extent of all welds shall be shown on the approved welding procedures and drawings upon which the LTR repairs are based.

(2) All reach welds shall be full penetration groove welds made from one side only and completely fused to a backing strip.

(3) The effective area of the weld is the effective length multiplied by the effective throat.

(4) The effective length of the groove weld is the length throughout which the correctly proportioned weld cross section exists.

(5) The effective throat is the minimal distance from the root of the weld to its face, less any reinforcement.

(6) Intermittent groove welds are prohibited.

(7) Outside or external surface of all groove welds shall be ground flush with the reach base metal.

(8) In order to minimize stress concentration and provide more length of weld to carry the stresses, a splice angle of from 45 to 60 degrees from the centerline of the reach tube is required.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0101

740-105-0120

Approved Repair Splice Configuration Diagram

The reach splice, including the weld, must be constructed in substantial compliance with the Department's approved splice configuration. A diagram of the approved splice configuration is available through the office of the Motor Carrier Transportation Division, 550 Capitol St. NE, Salem, Oregon 97310.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993 f. & cert. ef. 9-17-93 (Order No. 93-1308); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0102

740-105-0130

Welding Procedure

(1) All welding will be accomplished with either the SMAW procedure using covered electrodes, or the FCAW procedure which procedures are detailed in the **AWS structural welding code** (1992), which is hereby adopted by this reference.

(2) These procedure specifications shall be considered pre-qualified as detailed in **AWS D1.1-92**. Weld joints not conforming to the above requirements will require separate weld procedure specification testing.

(3) Prequalified joint procedure specifications **LTR-SMAW-1** and **LTR-FCAW-1**, as specified in **AWS D1.1 American Welding Society Structural Welding Code, 1992**, are part of this procedure.

(4) Base materials welded under this specification shall conform to one of the following **ASTM** material specifications (1993), which are hereby adopted by this reference:

- (a) **ASTM A500**, Grade B;
- (b) **ASTM A572**, Grades 50, 60;
- (c) **ASTM A656**, Type 70.

(5) Backing materials must be of the same material as the base metal, or may be any one of those listed in **AWS D1.1-92**. (**Copies of AWS D1.1., American Welding Society Structural Welding Code, 1992**, is available through the office of the Motor Carrier Transportation Division, 550 Capitol St. NE, Salem, Oregon 97310.)

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

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0103

740-105-0140

Filler Metals

(1) Filler metals used for production welding shall conform to one of the following **AWS** classifications:

- (a) SMAW Process — E7018-X;
- (b) FCAW Process — E71T-6;

(c) These electrodes must conform to the requirements of **AWS A5.1** and **AWS A5.20**.

(2) Low Hydrogen Electrode Storage Conditions — All electrodes having low hydrogen coverings conforming to **AWS A5.5** shall be purchased in hermetically sealed containers or shall be dried for at least two hours between 450°F (230°C) and 500°F (260°C) before they are used. Electrodes shall be dried prior to use if the hermetically sealed container shows evidence of damage. Immediately after opening of the hermetically sealed container or removal of the electrodes from drying ovens, electrodes shall be stored in ovens held at a temperature of at least 250°F (120°C).

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

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0104

740-105-0150

Electrical Characteristics of Power Sources

The electrical characteristics shall be DC reverse polarity base negative for the SMAW process, and DC straight polarity base positive for the FCAW process. The amperage and voltage ranges shall be substantially those listed on the joint design specification procedure.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0105

740-105-0160

Preparation of Base Metals

(1) Thermally shaped surfaces including repair cavities shall be ground lightly to remove residual material (approximately 1/32 inch) from the surface to be welded.

(2) Surfaces to be welded shall be free from the following:

(a) Fins, tears, cracks, torch gouges, excessive surface irregularities, etc.

(b) Loose or thick scale, slag, rust, moisture, paint, grease, and oil or other foreign materials that may be detrimental to the weld.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0106

740-105-0170

Groove Welds and Weld Profiles

(1) Groove Welds. Complete penetration groove welds shall be welded with a backing strip.

(2) Weld Profiles. All single bevel groove welds shall be ground flush with the base material.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0107

740-105-0180

Arc Strikes

Arc strikes shall be restricted to the area that will be covered by weld metal in the completed production weld. Arc strikes visible on post weld inspection shall be removed in such a manner as to restore the original surface.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0108

740-105-0190

Interpass Cleaning

Each weld bead or layer and all tack welds must be clean and free of slag by chipping, wire brushing, and/or grinding.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0109

740-105-0200

Weld Deposition Techniques

Welds shall be made by the stringer bead technique or the weave technique; when the weave technique is used for a shielded metal arc welding process, the width of weave will be restricted to four (4) times the electrode diameter.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0110

740-105-0210

Methods of Preheating

(1) Preheating may be accomplished by flame or electrical resistance method.

(2)(a) Preheat parameters.

(b) All preheating performed under the conditions of this procedure must comply with the following preheat parameters.

(A) In cases where no preheat is specified, and the ambient temperature is below 32°F, the base metal must be preheated to at least 70°F prior to welding and/or tack welding.

(B) Preheating will be done at least three (3) inches laterally and in advance of the welding.

(C) Welding will not be performed on surfaces that are wet or under high wind conditions without proper weather protection.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0111

740-105-0220**Inclement Weather Protection**

Welding will not be permitted in rain or high winds without adequate protection such as tents, etc.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0112

740-105-0230**Visual Inspection**

(1) Preweld weldment members shall conform to joint configuration cleanliness, fit-up, and tack welding as specified in this procedure.

(2) In-Process — The welding will be checked to determine that the provisions of this procedure are being followed such as correct preheat, correct electrode, correct weld, layer size, correct electrode size, etc.

(3) Post-Weld — The finished weld shall be inspected to verify conformance to this specification and weld procedure. The following weld metal defects are considered unacceptable:

- (a) Cracks;
- (b) Craters;
- (c) Porosity exceeding 3/8-inch in any linear inch of weld and 3/4-inch in any 12 inches length of weld;
- (d) Incomplete fusion or penetration;
- (e) Undercut exceeding 0.01 inch transverse to primary stress and 1/32 inch for all other situations;
- (f) Fillet weld undersize exceeding 1/16-inch over more than 10 percent of the weld length.

(4) It is highly recommended that postweld inspection by magnetic particle or liquid penetrant methods be employed if available. These methods are an enhancement of visual inspection allowing detection of cracks or discontinuities not discernible to the eye.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0113

740-105-0240**Safety Precautions**

As a minimum, safety precautions as published by the American Welding Society shall be used when welding and cutting.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0114

740-105-0250**Welder Qualification**

(1) Welders performing work under this procedure shall be qualified in accordance with **AWS D1.1-92**.

(2) Certificate of Welder Qualifications can be arranged for at community colleges, unions, and testing laboratories.

(3) Record of Certification. A record of welder certification shall be maintained by motor carriers employing welders completing welded repairs on LTRs. Such records shall be maintained at the motor carrier's or repair facility's address where such repairs are completed. The record of certification shall include at a minimum:

- (a) Welder's name;
- (b) Certification number;
- (c) Date of certification;
- (d) Name of facility where certification was completed;
- (e) Name and title of person who issued the certification; and
- (f) Dates this certification was used.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0115

740-105-0260**Records of Repair**

Each record of repair shall be maintained at the motor carrier's official physical address of record and shall include at a minimum:

- (1) Date of repair;
 - (2) Welder's name and certification number that effected the repair; and
 - (3) Reason repair was needed.
- Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0116

740-105-0270**Reach Repair Identification**

The repaired reach shall be stamped on the side of the reach within 24 inches of the compensator with:

- (1) The welder's six-digit certification number; and
- (2) The month and year of the completed repair.

Stat. Auth.: ORS 183.335, 823.011, 825.210 & 825.252
Stats. Implemented: ORS 825.210 & 825.252
Hist.: PUC 16-1993, f. & cert. ef. 8-19-93 (Order No. 93-1157); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0117

DIVISION 110**TRANSPORTATION OF HAZARDOUS MATERIALS****740-110-0010****Adoption of United States Department of Transportation Hazardous Materials Regulations**

(1) Any person subject to ORS Chapter 825 who transports a hazardous material and any person subject to 823.061 who causes to be transported a hazardous material must comply with the rules and regulations governing the transportation of hazardous materials as prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 397 and such portions of Parts 107-178 and 180 as are applicable and amendments thereto, in effect on April 1, 2016.

(2) Copies of the federal regulations referred to in this rule are available from ODOT, Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, www.fmcsa.dot.gov.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 825.258
Stats. Implemented: ORS 823.061, 825.258
Hist.: Refiled in PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 98, f. 1-18-61, ef. 1-12-61 (Order No. 37620); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 132, f. 3-29-65, ef. 4-1-65 (Order No. 41035); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 150, f. 11-7-68, ef. 12-1-68 (Order No. 45141); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); PUC 5-1980, f. & ef. 10-13-80 (Order No. 80-758); Renumbered from 860-036-0055; PUC 1-1981, f. & ef. 2-9-81; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 7-1986(Temp), f. & ef. 7-25-86 (Order No. 86-736); PUC 13-1986, f. & ef. 10-30-86 (Order No. 86-1106); 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 6-1992, 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 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 1-1996, f. 2-16-96, cert. ef. 4-1-96; Renumbered from 860-066-0055; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 5-1996, f. & cert. ef. 9-17-96; 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 1-2016, f. & cert. ef. 7-27-16

740-110-0020

General Provisions; Definitions

(1) The term “hazardous substance” contained in ORS 825.260 includes hazardous materials and hazardous waste as defined in ORS 466.005.

(2) The term “person who transports” means any person or entity involved in the actual transportation, by highway, of a hazardous substance, as defined in section (1) of this rule, by for-hire or private carriage in intrastate or interstate commerce.

(3) The term “person who causes to be transported” means any person or entity who directly or indirectly offers a hazardous substance, as defined in section (1) of this rule, for transportation by highway, either by for-hire or private carriage, in intrastate or interstate commerce.

Stat. Auth.: ORS 823.011, 823.061 & 825.260

Stats. Implemented: ORS 823.061, 823.063 & 825.258

Hist.: PUC 3-1979, f. 7-27-79, ef. 8-23-79 (Order No. 79-527); Renumbered from 860-036-0060; PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 8-1986, f. & ef. 8-4-86 (Order No. 86-788 and Order No. 86-808); 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 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0060; MCT 5-1996, f. & cert. ef. 3-17-96

740-110-0040

Incidents

(1) In the event of an incident, the transporter shall immediately notify all of the following:

(a) Oregon Emergency Response System telephone: 1-800-452-0311 when initiating the call within Oregon; and 1-503-378-4124 when initiating the call from outside Oregon;

(b) National Response Center (Telephone: 1-800-424-8802);

(c) Waste Generator (Telephone: see manifest or other shipping papers).

(2) The transporter shall note on the manifest the time and location of the incident and the type and amount of the hazardous waste which has spilled.

(3) Within 30 days after the incident, the transporter shall file a Hazardous Materials Incident Report (DOT Form F5800.1) with the Oregon Department of Transportation.

Stat. Auth.: ORS 183, 469, 823, 824 & 825

Stats. Implemented: ORS 825.258

Hist.: PUC 3-1979, f. 7-27-79, ef. 8-23-79 (Order No. 79-527); Renumbered from 860-036-0066; PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); 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); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0066

740-110-0060

Radioactive Material: Applicability, References and Terminology

(1) These rules apply to the transportation of radioactive material by highway in the State of Oregon. OAR 740-110-0060 to 740-110-0080 are auxiliary to and supplemental to 345-060-0001 to 345-060-0055.

(2) Transport by or under the direction of an agency of the federal government in federal vehicles is exempt. This section does not exempt shipments:

(a) Because federal physical security requirements are applicable;

(b) Because they originate from or are destined for a federal facility; or

(c) Because the material is owned by the federal government.

(3) In accordance with ORS 469.603 and 469.607, it is the intent of these rules to be consistent with the United States Department of Transportation and the Nuclear Regulatory Commission rules.

Stat. Auth.: ORS 183, 469, 823, 824 & 825

Stats. Implemented: ORS 825.258

Hist.: PUC 4-1991, f. & cert. ef. 3-14-91 (Order No. 91-310); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0073

740-110-0070

Oregon Radioactive Materials Transport Permit

(1) A person shall obtain an “Oregon Radioactive Materials Transport Permit” from the Oregon Department of Transportation, Motor Carrier Transportation Division, prior to transport in the State of Oregon of radioactive material which requires a placard on the vehicle according to Title 49, Code of Federal Regulations, Part 172 Sub Part F.

(2) An application for a permit shall be submitted annually to the Oregon Department of Transportation, Motor Carrier Transportation Division, 550 Capitol Street NE, Salem, Oregon 97301-2530. Carriers applying for the first time shall submit the application at least 30 days prior to transporting any materials specified in section (1) of this rule.

(3) An application shall include:

(a) Name and address of the carrier;

(b) Telephone numbers of the carrier that will be answered at any time for emergencies and a statement that the carrier has a 24-hour telephone number for contacting all shippers;

(c) A description of the material to be transported, number of shipments and estimated radioactivity per shipment. Precise information is not necessary if unavailable;

(d) A description of the route or routes to be taken and approximate schedule. Precise information is not necessary if unavailable;

(e) A description of any violations by the applicant of any local, state or federal regulations within the past two years related to radioactive materials transportation. Copies of most recent federal and/or state motor carrier safety and/or hazardous materials audit and inspection reports are sufficient to satisfy this requirement;

(f) Oregon DOT operating authority identification number, U.S. DOT Number, and U.S. EPA Identification Number, when appropriate; and

(g) Proof of insurance including minimum levels of coverage and policy expiration date, or verification of self insurance.

(4) A regular permit will be issued if the applicant’s record of violations of federal and state motor carrier safety and hazardous materials requirements indicate that its practices have not and will not create an undue risk to public health, safety, or the environment.

(5) Conditional permits will be issued when the carrier’s Federal Highway Administration safety rating is “conditional” pursuant to the authority of Title 49, Code of Federal Regulations, Part 385.1. Shipments made under a conditional permit require pre-trip notification to arrange for inspection.

(6) A permit may be issued by telephone when, as a result of conditions not subject to the control of the carrier, compliance within the 30-day requirement of section (2) of this rule is not possible. A carrier acquiring a permit under this section shall provide information contained in subsection (3)(a) through (d), (f) and (g) of this rule.

(7) Copies of the carrier’s Oregon Radioactive Materials Transport Permit shall accompany shipments of radioactive material transported by highway.

(8) Any person who has been denied a permit under this rule shall upon request be granted a hearing before the Department. After hearing, the Department shall grant or deny the permit.

(9) Once issued, permits may remain valid for one year from date of issuance.

(10) Permits may be revoked for failure to comply with the conditions named on the permit, and/or violations of the motor carrier safety, hazardous and/or radioactive materials requirements.

(11) Reinstatement of a permit revoked under section (10) of this rule will require submission of a new application and a demonstration that remedial actions have been taken to prevent recurrence of the violation(s).

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

Stat. Auth.: ORS 469.470, 823.011, 825.252 & 825.258

Stats. Implemented: ORS 825.258

Hist.: PUC 4-1991, f. & cert. ef. 3-14-91 (Order No. 91-310); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0074; MCTB 6-1998, f. & cert. ef. 12-21-98; MTCB 3-2000, f. & cert. ef. 4-28-00

740-110-0080

Inspections

(1) Notwithstanding 49 CFR 385.415(b)(1), Oregon Department of Transportation, Motor Carrier Transportation Division, in its discretion, may require the inspection of any vehicle, driver and:

(a) Shipment of “irradiated reactor fuel” as defined in Title 10 Code of Federal Regulations (CFR), Part 73.37;

(b) “Highway route controlled shipment” as defined in Title 49 CFR Part 173.403;

(c) Any shipment transported under an Oregon Radioactive Materials Transport Permit; and

(d) Any other shipment of “radioactive material” as defined in Title 49 CFR Part 173.403.

(2) A determination of the need, and arrangements, for inspection will be made at the time of notice required in OAR 740-110-0090(2).

Stat. Auth.: ORS 469.470, 823.011, 825.252 & 825.258

Stats. Implemented: ORS 825.258

Hist.: PUC 4-1991, f. & cert. ef. 3-14-91 (Order No. 91-310); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0075; MTCB 3-2000, f. & cert. ef. 4-28-00; MCTD 2-2004, f. & cert. ef. 3-26-04; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-110-0090

Notification of Inspection

A motor carrier engaged in the transportation of radioactive materials shall provide notification as follows:

(1) Notification pursuant to Nuclear Regulatory Commission rules found in Title 10, Code of Federal Regulations, Part 71.97 and Part 73.37(f) for irradiated reactor fuel and other materials shall be to: Administrator, Energy Resources Division, Oregon Office of Energy, 625 Marion St., NE, Salem, Oregon 97310, Telephone: (503) 378-4040.

(2) Notice for shipments described in OAR 740-110-0080(1) must be made by the carrier as follows:

(a) As soon as practicable, but no later than 48 hours before time of shipment in Oregon;

(b) When, as a result of conditions not subject to the control of the carrier, it is not possible to comply with the 48-hour minimum notification, then notice shall be made immediately by telephone, or in any event not later than on the next working day, and shall explain why the carrier could not comply with the 48-hour requirement;

(c) When an inspection has been scheduled, additional notice is required if the shipment is cancelled, or if carrier’s arrival at the inspection location will miss the designated inspection time by two or more hours (early or late);

(d) All notices and inspection schedule changes shall be in writing or by telephone between 0800 and 1700 Pacific Time to: Oregon Department of Transportation, Motor Carrier Transportation Division (MCTD), 550 Capitol Street NE, Salem, Oregon 97310-2530, Telephone: (503) 378-5916, FAX (503) 378-8815; and

(e) Notice must include the following information:

(A) Carrier’s name, address, telephone number and Oregon MCTD File Number;

(B) Shipper’s and receiver’s names, addresses and telephone numbers;

(C) A description of the material, which shall include proper shipping name, hazard class, hazardous material identification number, and total quantity by weight or volume, and number of curies;

(D) A description of the route and approximate schedule; and

(E) A description of the transport vehicle(s) and name of driver(s).

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

Stat. Auth.: ORS 469.470, 823.011, 825.252 & 825.258

Stats. Implemented: ORS 825.258

Hist.: PUC 4-1991, f. & cert. ef. 3-14-91 (Order No. 91-310); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0077; MTCB 3-2000, f. & cert. ef. 4-28-00; MCTD 2-2004, f. & cert. ef. 3-26-04

DIVISION 200

**RECIPROCAL AGREEMENTS
AND INTERSTATE COMPACTS**

740-200-0010

Prorate Registration

(1) The provisions contained in the “International Registration Plan” (IRP), the IRP Audit Procedures Manual and all amendments thereto in effect January 1, 2016, are hereby adopted and prescribed by the Oregon Department of Transportation and apply to the apportioned registration of vehicles. Unless otherwise revised by written delegation, the designated person to cast a vote on an IRP ballot for Oregon is the Administrator of the Motor Carrier Transportation Division.

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IRP:

(a) Records required to be maintained for distance data must denote intermediate trip stops;

(b) Audit assessments are subject to penalty, late payment charges and interest described in IRP and the IRP Audit Procedures Manual;

(c) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served upon the petitioner. A petitioner may submit a request for hearing in the petition for reassessment; and

(d) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days’ notice of the time and place of the hearing. The Department may assess a penalty of \$150 for failure to appear at a scheduled hearing.

(3) The mileage reporting period for application and renewal purposes will be the previous July through June twelve-month period.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003

Stats. Implemented: ORS 826.005 & 826.007

Hist.: PUC 8-1990, f. & cert. ef. 5-25-90 (Order No. 90-834); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-081-0005; MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 6-2012, f. & cert. ef. 7-19-12; MCTD 1-2013, f. & cert. ef. 1-17-13; MCTD 1-2013, f. & cert. ef. 1-17-13; MCTD 7-2013, f. 12-20-13, cert. ef. 1-1-14; MCTD 2-2015, f. & cert. ef. 5-26-15; MCTD 2-2016, f. & cert. ef. 7-27-16

740-200-0020

Adoption of Federal Rules Governing Payment of Heavy Vehicle Use Tax (HVUT)

The Department hereby adopts the rules of the United States Internal Revenue Service contained in 26 CFR Part 41 (HVUT) and all amendments thereto in effect January 1, 2016. These rules apply to carriers conducting operations subject to ORS Chapter 826. As provided in CFR Title 26 Part 41.6001-2(b)(3), the Department will suspend the registration of a vehicle for which proof of HVUT payment has not been received within four months of the effective date of registration.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003

Stats. Implemented: ORS 803.370(5) & 826.007

Hist.: PUC 19-1990, f. & cert. ef. 12-31-90 (Order No. 90-1919); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-081-0015; MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 2-2012, f. & cert. ef. 2-21-12; MCTD 1-2013, f. &

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cert. ef. 1-17-13; MCTD 7-2013, f. 12-20-13, cert. ef. 1-1-14; MCTD 2-2015, f. & cert. ef. 5-26-15; MCTD 2-2016, f. & cert. ef. 7-27-16

740-200-0030

Transfer of Registration Fees and Refunds

(1) For purposes of this rule the following definitions apply:

(a) The term “transfer of registration fees” refers to the application of an existing credit on the motor carrier’s account in a manner consistent with this rule.

(b) A refund means the return of money originally paid by the registrant to the Department.

(c) Registration periods are based on a calendar year. When a registrant elects to pay Oregon registration fees for calendar quarters, the registration starts on the first day of the calendar quarter and runs through the last day of the last calendar quarter in the registration period.

(2) The Department may grant unexpired Oregon registration fee refunds if requested in writing when:

(a) It has issued to a registrant duplicate registration for a vehicle which was for the registrant within the same fleet during the registration period;

(b) A registrant has, during the registration period, changed a vehicle from registration solely in Oregon to registration under the International Registration Plan;

(c) A registrant has registered a vehicle at a weight above the legal capacity of the vehicle without operating over the legal capacity and has, during the registration period, reduced the weight to the vehicle’s legal capacity;

(d) The Department has conducted an audit which shows that a registrant overpaid registration fees;

(e) A registrant has registered a non-apportioned vehicle in error, has returned the registration credentials, and the Department has received the registration credentials before the effective date of the registration;

(f) The Department has determined that it has, through a computation error, overcharged a registrant for registration fees;

(g) A registrant has shown that it is entitled to a refund of unused registration fees for a non-apportioned vehicle that has been accidentally destroyed so as to be incapable of further operation, as described in ORS 803.590(2). Destroyed does not mean mechanical failure or defect; or

(h) A registrant has gone out of business during the registration period and meets the conditions specified in ORS 826.039 for non-apportioned vehicles subject to weight-mile tax that are fully registered in Oregon.

(3) The Department will not grant registration refunds when:

(a) A registrant has, during the registration period, changed from registration under the International Registration Plan to registration solely in Oregon;

(b) A registrant not entitled to a refund under subsection (1)(g) of this rule has, during the registration period, removed a vehicle from service;

(c) A registrant has, during the registration period, gone out of business and does not meet the conditions specified in ORS 826.039;

(d) A registrant has, during the registration period, reduced weight for a vehicle;

(e) A registrant operating in Oregon and in one or more other states has, during the registration period, changed its base state;

(f) The Department has, for any reason, canceled the registration;

(g) A registrant has elected calendar quarters and has operated at any time within any of the designated quarters;

(h) A motor carrier operating a vehicle after the effective date of a vehicle’s registration period will not be granted a refund; or

(i) Registration dollars have been collected and transferred to another jurisdiction. In this circumstance, the motor carrier requesting a refund must request the refund directly from the jurisdiction to which the funds have been transferred.

(4) If a vehicle is permanently withdrawn from a fleet that is proportionally registered under ORS 826.009 or 826.011 as a result of being destroyed, sold or otherwise removed from the service of

the registrant, the Department may issue a transfer of fees for the unused, unexpired portion of the registration in accordance with the terms of interstate agreements. The transfer of fees must be used to register a similar vehicle in the same fleet and within the same registration year. The fees will not be subject to refund.

Stat. Auth.: ORS 183.335 & 823.011

Stats. Implemented: ORS 826.039

Hist.: PUC 9-1993, f. & cert. ef. 5-12-93 (Order No. 93-652); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-081-0020; MCTD 8-2012, f. & cert. ef. 8-17-12

740-200-0040

Adoption of International Fuel Tax Agreement

(1) The provisions contained in the International Fuel Tax Agreement (IFTA) Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, and all amendments thereto in effect January 1, 2016, are hereby adopted and prescribed by the Oregon Department of Transportation (ODOT) and apply to Oregon-based motor carriers who participate in IFTA.

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IFTA:

(a) Records required to be maintained for distance data must denote intermediate trip stops;

(b) Records of monthly over the road and bulk fuel reconciliations must be maintained;

(c) The Department will assess a penalty of \$50 or 10 percent of the amount of delinquent taxes due, whichever is greater, for failing to file a return, filing a late return, or underpaying taxes due on a return;

(d) The Department will assess a penalty of 10 percent of the amount of delinquent taxes due, for additional assessments as the result of an audit;

(e) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served to the petitioner. A petitioner may submit a request for hearing in the petition for reassessment;

(f) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days’ notice of the time and place of the hearing; and

(g) An amendment may be made to, or audit conducted of, a tax return not more than four (4) years from the date the taxes or fees were filed.

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

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stat. Implemented: ORS 825.490, 825.494 & 825.555

Hist.: MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 4-2009, f. 12-22-09, cert. ef. 1-1-10; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 2-2012, f. & cert. ef. 2-21-12; MCTD 1-2013, f. & cert. ef. 1-17-13; MCTD 7-2013, f. 12-20-13, cert. ef. 1-1-14; MCTD 8-2014, f. & cert. ef. 9-22-14; MCTD 2-2015, f. & cert. ef. 5-26-15; MCTD 2-2016, f. & cert. ef. 7-27-16

740-200-0045

Industry Standard Average MPG

The International Fuel Tax Agreement (IFTA) Audit Manual adopted under OAR 740-200-0040 describes that industry averages may be used to determine fuel tax liability when a licensee fails to maintain or provide records adequate to support reported fuel tax.

(1) The Motor Carrier Transportation Division will periodically analyze industry fleet data to determine Oregon industry standard average miles per gallon (MPG) segregated by four vehicle weight groups:

(a) 26,001–33,000 pounds;

(b) 33,001–60,000 pounds;

(c) 60,001–80,000 pounds; and

(d) Over 80,000 pounds.

(2) Failure to maintain or provide records required by IFTA adequate to support reported fuel tax and described in OAR 740-200-0040(2) may result in assessment of fuel taxes based on:

- (a) Prior experience of the licensee;
- (b) Licensees with similar operations;
- (c) Industry averages;
- (d) Records available from fuel distributors; or
- (e) Other pertinent information the auditor may obtain or examine.

(3) Absent substantial evidence to the contrary by reviewing the compliance record of the licensee, in the absence of adequate records, a standard of 4 MPG may be used.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.555

Stats. Implemented: ORS 825.490, 825.494 & 825.555

Hist.: MCTD 1-2006, f. & cert. ef. 2-16-06; MCTD 4-2009, f. 12-22-09, cert. ef. 1-1-10

DIVISION 300

PENALTIES

740-300-0005

Failure to Report or Pay Oregon Highway Use Tax

(1) A motor carrier adjudicated to have repeatedly violated Oregon Revised Statute (ORS) Chapter 825 or the rules of the Department by failing to report and pay all operations and Oregon Highway Use Tax, as described in ORS 825.450, et seq., at the discretion of the Department may be required to implement and use an “electronic system” defined in OAR 740-065-0005(7) to report and pay its tax electronically through the “electronic system provider” defined in 740-065-0005(8) for all vehicles operating in Oregon.

(2) When notified by the Department of the requirement to use an “electronic system”, the motor carrier must prove, to the satisfaction of Department, the “electronic system” is installed and operational in all registered vehicles operating in Oregon within 30 calendar days from the date of the notification.

(3) As a condition of maintaining a continuing account with the Department, the motor carrier must satisfy payment requirements determined by the Department for any outstanding debt.

(4) After 36 months or the satisfaction of the debt, whichever occurs first, the motor carrier may request a review by the Department to report and pay taxes without a requirement to use an “electronic system.”

(5) Failing to comply with paragraphs (1) through (3) of this rule will result in the suspension of the motor carrier authority.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 825.137, 825.139, 825.135, 825.450, 825.474, 825.490 - 825.496 & 825.506

Hist.: MCTD 5-2015, f. & cert. ef. 9-21-15

740-300-0010

Failure to Produce Records — Penalties

Except as otherwise ordered by the Department in a particular case, after written notice, any motor carrier who fails to produce records as required by the Department under OAR 740-055-0100, in addition to any other penalties authorized by law, will be subject to the following penalties under ORS 825.137(2)(g) and 825.950:

(1) \$100 per day for each day of failure for a period not to exceed 10 days, and except as described in subsection (3), suspension of operating authority until reinstated by the Department;

(2) \$100 per day for each day of failure from the 16th day of the entry of the order under subsection (1) of this section, for a period not to exceed 20 days, and cancellation of operating authority;

(3) Any suspension of authority imposed for failure to produce records as described in OAR 740-055-0100(4) will be held in abeyance for one year if the motor carrier has not been found in violation of OAR 740-055-0100(4) within the prior five years. A second failure to produce records subjects the motor carrier to a five day suspension of operating authority. A third failure to

produce records under this section may result in cancellation of operating authority.

Stat. Auth.: ORS 183, 823 & 825

Stats. Implemented: ORS 823.029

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0020; MCTD 4-2011, f. & cert. ef. 11-23-11

740-300-0020

Failure to Produce Records — Mitigation

Except as otherwise ordered by the Department in a particular case, the following mitigation policy shall apply to any motor carrier who incurs a penalty under OAR 740-300-0010 for failure to produce records:

(1) A defendant who produces the required records prior to the entry of the penalty order and who has had no orders with respect to similar violations within the preceding five years, is eligible for a 50-percent reduction of the assessed monetary penalty and no suspension of operating authority. Staff shall advise the Department when required records are produced prior to entry of the penalty order.

(2) A defendant who produces the required records prior to the entry of the penalty order, but who has a previous history of such violation within the preceding five years, is subject to the full monetary penalty, but no suspension shall be imposed nor shall the authority be canceled. Staff shall advise the Department when required records are produced prior to the entry of the penalty order.

(3) No mitigation will be considered for a defendant who has not answered the notice of proposed civil penalty or who has not produced the requested records prior to entry of a penalty order.

(4) For purposes of determining mitigation, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 823.029

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0030; MCT 3-1997, f. & cert. ef. 5-9-97

740-300-0030

Violation of ORS 825.100, Relating to Operating Without a Certificate or Permit — Penalties

Except as otherwise ordered by the Department in a particular case, any person who violates ORS 825.100 by operating without proper authority, or any rule or order related thereto, in addition to any other penalties authorized by law, shall be subject to the following penalties:

(1) Where operating authority had been issued to carrier, but was suspended at time of violation:

(a) Level I finding of violation(s) apply if no penalty order or cease and desist order has been entered against the defendant within the preceding five years for violations described in this rule and no other notice of proposed civil penalty or notice of proposed finding of violation(s) is pending against the defendant for violations described in this rule. If such violations have been found within the last five years, or a notice of proposed penalty or notice of proposed finding of violation(s) is pending against the defendant for violations described in this rule, penalties will be assessed at Level II. Upon a finding of violation(s) at Level I, the Department will issue an order finding such violation(s).

(b) Level II penalties, except as provided in subsection (c) of this section, apply to a defendant who does not meet the criteria in subsection (a) of this section. The penalties shall include:

(A) \$250 for each new violation committed; and

(B) Suspension of operating authority for five working days.

(c) Level III penalties apply to a defendant who has been penalized at Level II within 12 months preceding the violation. The penalties shall include:

(A) \$500 for each new violation committed;

(B) Imposition of suspended penalties under prior orders for previous violations of ORS 825.100, unless suspension of prior penalties has become permanent; and

(C) Suspension of operating authority for five working days, or cancellation of authority if warranted by the circumstances of the particular case.

(2) For the purpose of assessing penalties under section (1) of this rule, a carrier commits one violation for each vehicle operated in a given day while authority is suspended.

(3) Where operating authority had been issued to the carrier, but the carrier did not have the proper authority for the transportation conducted, the same conditions and penalties provided in section (1) of this rule shall apply.

(4) For the purpose of assessing penalties under section (3) of this rule, a carrier commits one violation for each movement made without proper operating authority.

(5) For purposes of determining which penalty level is applicable, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.100 & 825.950

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); PUC 12-1995, f. & cert. ef. 11-27-95 (Order No. 95-1218); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0060; MCT 3-1997, f. & cert. ef. 5-9-97; MCTB 4-2001, f. & cert. ef. 11-9-01

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 & Ch. 433 OL 2009

Stats. Implemented: ORS 825.100 & 825.950

Hist.: MCTD 9-2003(Temp), f. 12-12-03, cert. ef. 1-1-04 thru 6-28-04; MCTD 3-2004, f. 6-24-04, cert. ef. 6-29-04; MCTD 4-2006, f. & cert. ef. 8-28-06; MCTD 2-2009, f. & cert. ef. 9-29-09

740-300-0040

Violation of ORS Chapter 825 and 826 Not Otherwise Provided For — General Penalties

(1) Except as otherwise ordered by the Department in a particular case, any person who violates any provision of ORS Chapter 825 or 826, or any rule or order of the Department related thereto which has not otherwise been provided for in the Department's rules, shall be subject to the penalties in sections (3), (4) and (5) of this rule.

(2) As used in this rule, "similar violation" means a violation which is similar to the violation alleged in the notice of proposed civil penalty. For the purpose of determining similarity under this rule, violations shall be classified as those relating to:

(a) Registration of vehicles;

(b) Oregon Weight Receipt and Tax Identifiers or other authorized identification devices;

(c) Economic regulation of transportation of household goods, except rates;

(d) Rates for the transportation of household goods; or

(e) Violations of a statute or rule not included in subsections (a) through (d) of this section.

(3) Level I finding of violation(s) apply if no penalty order, cease and desist order or finding of violation(s) has been entered against the defendant within the preceding five years for similar violations of statutes and rules described in this section and no other notice of proposed civil penalty or notice of proposed finding of violation(s) is pending against the defendant for similar violations. If such violations have been found within the last five years, or a notice of proposed penalty or notice of proposed finding of violation(s) is pending against the defendant for violations described in this rule, penalties will be assessed at Level II. Upon a finding of violation(s) at Level I, the Department will issue an order finding such violation(s).

(4) Level II penalties, except as provided in section (5) of this rule, apply to a defendant who does not meet the criteria in section (3) of this rule. The penalties shall include:

(a) \$100 for each new violation committed; and

(b) Suspension of operating authority for five working days.

(5) Level III penalties apply to a defendant who has been penalized for similar violations at Level II within 12 months preceding the violation. The penalties shall include:

(a) \$100 for each new violation committed;

(b) Imposition of penalties suspended under prior orders for similar violations, unless suspensions have become permanent; and

(c) Suspension of operating authority for five working days, or cancellation of authority if warranted by the circumstances of the particular case, for violation of ORS Chapter 825 or 826.

(6) Unregistered Vehicles: For the purpose of assessing penalties for violations of ORS 826.031, a defendant will be deemed to have committed one violation for each unregistered vehicle operated in a given month.

(7) Vehicles Operated Without Oregon Weight Receipt and Tax Identifier or other Authorized Identification: For the purpose of assessing penalties for violations of ORS 825.450 or 825.470, a defendant will be deemed to have committed:

(a) One violation per day for each vehicle operated without an Oregon Weight Receipt and Tax Identifier or valid temporary pass; or

(b) One violation per vehicle for each vehicle operated with an expired (non-renewed) Oregon Weight Receipt and Tax Identifier.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 818.210, 818.230, 825.104, 825.110, 825.160, 825.166, 825.202, 825.204, 825.206, 825.224, 825.234, 825.320, 825.470, 825.950 & 826.031

Hist.: PUC 12-1995, f. & cert. ef. 11-27-95 (Order No. 95-1218); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0065; MCT 3-1997, f. & cert. ef. 5-9-97; MCT 8-1997, f. & cert. ef. 11-17-97; MCT 11-1997, f. & cert. ef. 12-22-97; MCTB 5-1998, f. & cert. ef. 11-18-98; MCTB 4-2001, f. & cert. ef. 11-9-01; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTD 3-2016, f. & cert. ef. 9-26-16

740-300-0045

Violation of ORS Chapter 818 — General Penalties

(1) Except as otherwise ordered by the Department in a particular case, any person who violates or aids and abets a violation of any provision of ORS Chapter 818, or any rule or order of the Department related thereto which has not otherwise been provided for in the Department's rules, shall be subject to the penalties in sections (2), (3) and (4) of this rule.

(2) Level I penalties are \$100 for each new violation if:

(a) No penalty order or cease and desist order has been entered against the defendant within the preceding five years for similar violations of statutes and rules described in this section; and

(b) No other notice of proposed civil penalty is pending against the defendant for similar violations.

(3) Level II penalties, except as provided in section (4) of this rule, apply to a defendant who does not meet the criteria in subsections (2)(a) and (b) of this rule. The penalties shall include:

(a) \$100 for each new violation committed;

(b) Imposition of penalties suspended under prior orders for similar violations, unless suspensions have been permanent by the terms of the order; and

(c) Suspension of ability to operate under variance permit for five working days if warranted by the circumstances of the particular case.

(4) Level III penalties apply to a defendant who has been penalized for similar violations at Level II within one year preceding the violation. The penalties shall include:

(a) \$100 for each new violation committed;

(b) Imposition of penalties suspended under prior orders for similar violations; and

(c) Suspension or cancellation of ability to operate under variance permit if warranted by the circumstances of the particular case.

Stat. Auth.: ORS 823.011 & 825.232

Stat. Implemented: ORS 818.220, 818.450 & 825.950

Hist.: MCTB 4-2001, f. & cert. ef. 11-9-01

740-300-0050**Mitigation for Violations Described in OAR 740-300-0030 and 740-300-0040**

A petitioner who has admitted the allegations of a notice of proposed civil penalties under OAR 740-300-0030, 740-300-0040 or 740-300-0045, or who has requested mitigation under ORS 825.950(4)(b) within 15 days of service of a penalty order, may be eligible for mitigation of penalties. Except as otherwise ordered by the Department in a particular case, and except as provided in section (4) of this rule, the mitigation policy set forth in sections (1), (2) and (3) of this rule shall apply to any person who incurs a penalty under OAR 740-300-0030, 740-300-0040 or 740-300-0045 and who has taken corrective action to remedy the violation(s) and otherwise is in substantial compliance with the laws and rules of the Department:

(1) Level I Penalties: The Department shall suspend 50 percent of the monetary penalty assessed or requested under OAR 740-300-0045 for each violation at Level I on the condition that petitioner must not violate similar statutes or regulations within one year from the date of the penalty order.

(2) Level II Penalties: There shall be no mitigation of monetary penalties for violations at Level II, but the Department may hold in abeyance any suspension of operating authority which has been imposed or requested.

(3) Level III Penalties: There shall be no mitigation allowed with respect to penalties imposed or requested that were imposed and suspended under prior orders, nor shall mitigation be allowed with respect to monetary penalties imposed at Level III. However, the Department may hold in abeyance any new suspension of operating authority which has been imposed at Level III. Where the Department has ordered cancellation of authority, it will consider mitigation of such order on a case-by-case basis.

(4) The Department shall consider the history of violations by the petitioner and the number of violations charged in determining whether the mitigation guidelines in sections (1), (2) and (3) of this rule are appropriate. There shall be no mitigation in the following cases:

(a) Where the petitioner provided false information to the Department staff about the nature of its operations;

(b) Where the petitioner willfully evaded or attempted to evade compliance, such as registration at a port of entry; or

(c) Where the petitioner has failed to pay previously assessed penalties.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.950

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); PUC 12-1995, f. & cert. ef. 11-27-95 (Order No. 95-1218); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0070; MCT 3-1997, f. & cert. ef. 5-9-97; MCTB 4-2001, f. & cert. ef. 11-9-01

740-300-0060**Violation of Statutes and Rules Related to Safety (Except Hazardous Materials) — General Penalties**

Except as otherwise ordered by the Department in a particular case, any person who violates a provision of ORS 825.210, 825.250, 825.252, 825.254, 825.410, and related rules, in addition to any other penalties authorized by law will be subject to penalties in sections (2), (3) and (4) of this rule.

(1) As used in this rule, “similar violation” means a violation that is similar to the violation alleged in the notice of proposed civil penalty. For the purpose of determining similarity, violations will be classified as those relating to:

(a) Driver qualifications;

(b) Driver hours of service;

(c) Vehicle maintenance;

(d) Drug and alcohol testing or use; and

(e) Records and reports not included in subsections (a), (b), (c) or (d) of this section.

(2) Level I finding of violation(s) apply if no penalty order, cease and desist order or finding of violation(s) has been entered against the defendant within the preceding five years for violations of statutes or rules described in this rule. If such violations have been found within the last five years or a cease and desist order has been issued, the penalties will be assessed at Level II. At Level I, the Department will issue an order finding such violation(s).

(3) Level II penalties, except as provided in section (4) of this rule apply to a defendant who does not meet the criteria in section (2) of this rule.

(a) Level II penalties for all safety violations other than those specified in ORS 825.955(1)(c) are \$100 per violation;

(b) Level II penalties for each violation specified in ORS 825.955(1)(c) related to drug and alcohol testing are \$500 per violation; and

(c) Penalties assessed under subsections (a) and (b) of this section include suspension of operating authority for five working days.

(4) Level III penalties apply to a defendant who has been penalized at Level II within the 12 months preceding the violation.

(a) Level III penalties for all safety violations other than those specified in ORS 825.955(1)(c) are \$100 per violation;

(b) Level III penalties for each violation specified in ORS 825.955(1)(c) related to drug and alcohol testing are \$1,000 per violation;

(c) Penalties assessed under subsections (a) and (b) of this section include imposition of suspended penalties under prior orders for similar violations, unless suspensions have become permanent; and

(d) Suspension of operating authority for five working days or cancellation of authority, if warranted by the circumstances of the particular case.

(5) For purposes of determining which penalty level is applicable, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 825.232

Stats. Implemented: ORS 825.250, 825.410, 825.950 & 825.955

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 12-1995, f. & cert. ef. 11-27-95 (Order No. 95-1218); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0040; MCT 3-1997, f. & cert. ef. 5-9-97; MCTB 1-2001, f. & cert. ef. 1-17-01; MCTB 4-2001, f. & cert. ef. 11-9-01; MCTD 3-2012, f. & cert. ef. 3-26-12

740-300-0070

Violation of Statutes and Rules Related to Safety (Except Hazardous Materials) — General Mitigation

A petitioner who has admitted the allegations of a notice of proposed civil penalty for penalties under OAR 740-300-0060, or who has requested mitigation under ORS 825.950(4)(b) within 15 days of service of a penalty order, may be eligible for mitigation of penalties. Except as otherwise ordered by the Department in a particular case, the mitigation policy set forth in sections (1) and (2) of this rule shall apply to any person who incurs a penalty under OAR 740-300-0060 and who has taken corrective action to remedy the violation(s) and otherwise is in substantial compliance with the laws and rules of the Department.

(1) Level II Penalties: There shall be no mitigation of monetary penalties for violations at Level II, but the Department may hold in abeyance any suspension of operating authority which has been imposed or requested.

(2) Level III Penalties: There shall be no mitigation allowed with respect to penalties imposed or requested that were imposed and suspended under prior orders, nor shall mitigation be allowed with respect to monetary penalties imposed at Level III. However, the Department may hold in abeyance any new suspension of operating authority which has been imposed at Level III. Where the Department has ordered cancellation of authority, it will consider mitigation of such order on a case-by-case basis.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.950

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); PUC 12-1995, f. & cert. ef. 11-27-95 (Order No. 95-1218); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0050; MCT 3-1997, f. & cert. ef. 5-9-97; MCTB 4-2001, f. & cert. ef. 11-9-01

740-300-0090

Violation of Rules — Civil Penalties Under ORS 825.258

(1) Any person who transports or who causes to be transported, a hazardous material, as defined in OAR 740-110-0020, who violates a rule of the Department adopted under ORS 825.258, shall be subject to the penalties in section (5) of this rule.

(2) As used in this rule, the following definitions apply:

(a) “Similar violation” means a violation similar to a violation that was documented either by a five-day corrective notice or an order issued by the Department of Transportation;

(b) “Hazardous materials” means a hazardous substance as defined by OAR 740-110-0020(1); and

(c) “Audit” means a Safety Compliance Review at the transporter’s place of business, or other investigation or inspection to determine compliance with rules adopted under ORS 825.258.

(3) Staff Guidelines for Monetary Penalties: Penalties requested by staff in a notice of proposed civil penalty shall be guided by application of the Hazardous Materials Penalty Matrix contained in OAR 740-300-0100. The guidelines of the matrix shall be applied to each violation separately. A copy of the penalty matrix worksheet shall be attached to each notice showing the calculation of the penalty and the value assigned to each violation. The worksheet shall indicate the values assigned to each rule violation in a manner which will allow the Department to adjust the total points to eliminate the effect of an alleged violation found not to have been committed.

(4) Evidence Relating to Application of Matrix: The Department shall not accept evidence with respect to the weighting by

staff of rules violations unless the evidence shows that staff have not applied the guidelines in good faith.

(5) Monetary penalties shall be determined by the Echelon value resulting from the point values applied in the Hazardous Materials Matrix contained in OAR 740-300-0100 as follows:

(a) Echelon I violations equal \$250 per violation to a maximum of \$2,500;

(b) Echelon II violations equal \$500 per violation to a maximum of \$5,000;

(c) Echelon III violations equal \$1,000 per violation to a maximum of \$10,000; and

(d) Echelon IV violations equal \$10,000 per violation with no maximum.

(6) Upon a finding of violation(s) at Level I, the Department will issue an order finding such violation(s).

(7) Level II: If within the five years preceding the violation, the defendant has been found by order of the Department in violation of rules in the same group, or has received a cease and desist order or order finding violations occurred with respect thereto, penalties will be assessed at Level II. In addition to monetary penalties, the Department shall suspend the operating authority of the transporter for five working days.

(8) Level III: For a defendant who has been penalized at Level II within the 12 months preceding the violation, in addition to monetary penalties, the Department will impose any penalties suspended under prior orders, except suspensions of penalties which have become permanent and shall suspend for an additional five days any operating authority of the transporter or cancel such authority if justified by the circumstances of the particular case.

(9) For purposes of determining which penalty level is applicable, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest.

(10) A person who causes to be transported a hazardous substance as defined in OAR 740-110-0020(3) shall have five business days from the date of written notice of violation(s), by the Department of Transportation, to correct the violation(s) without being subject to penalties under this rule except when:

(a) The person has committed similar violations as defined in subsection (2)(a) of this rule within the previous five years; or

(b) As determined by the Department of Transportation, the violation could or does cause substantial harm to human health or the environment.

Stat. Auth.: ORS 823.011 & 825.258

Stats. Implemented: ORS 823.061, 823.063 & 825.258

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0090; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 3-1997, f. & cert. ef. 5-9-97; MCTB 4-2001, f. & cert. ef. 11-9-01

740-300-0100

Hazardous Materials Penalty Matrix

(1) The guidelines in sections (2) and (3) of this rule shall be applied by staff when determining the monetary penalties to be requested for violations of rules adopted under ORS 825.258, relating to hazardous materials.

(2) Categories within the Hazardous Materials Matrix:

(a) “Potential for Harm” establishes the potential of a violation to cause or contribute to a hazardous materials incident or to hamper emergency response efforts in the event of an incident. The factors contained within this category are:

(A) Recordkeeping (not including shipping documents);

(B) Driving/Transportation (including shipping documents);

(C) Safety/Equipment (includes packaging);

(D) Time/Mileage (extent of exposure);

(E) Location (population/water, etc.); and

(F) Potential Harm.

(b) “Severity of Harm” is considered when there has been an incident involving a hazardous material. The factors contained within this category are:

(A) Road and Traffic;

(B) Environment; and

(C) Life and Limb.