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DIVISION 1

PROCEDURAL RULES

734-001-0003

Public Hearing for New State Highway Route or Corridor

The Oregon Transportation Commission, pursuant to ORS 366.215, may, 30 days or more after a public hearing covering the selection of any new State Highway route or corridor, which said hearing shall be publicly advertised in newspapers of general circulation not less than three weeks in advance of such hearing, adopt said route or corridor at any Transportation Commission meeting. Interested persons may submit data, views or arguments concerning any proposed route or corridor to the Region Office of the Department of Transportation within 10 days following any public hearing.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.215

Hist.: HC 1267, f. 12-6-71; HWY 4-1990, f. & cert. ef. 3-8-90

Procedures for Land Acquisition

734-001-0025

Relocation Procedures for Land Acquisition

(1) Within 90 days of having been notified of a determination granting or denying eligibility for a Relocation payment, or of an amount of payment under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and any regulations adopted thereunder, any person dissatisfied with such determination may file a "request for appeal" upon forms provided by the Department of Transportation.

(2) Within 30 days after receipt of the request for appeal, a prehearing conference shall be held involving the individual requesting the appeal, the Regional Right of Way Supervisor and the Relocation Supervisor.

(3) Within 45 days after receipt of the request for appeal, a contested case hearing shall take place before a hearings board or hearings officer as established or appointed by the Chief Engineer or Director if the matter was not resolved by the prehearing conference.

(4) The Relocation appeal process and hearing concerning the determination of eligibility or amount of payment shall be conducted as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.310 to 183.550.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.324 & PL 91-646 (Federal Law)

Hist.: 2HD 2-1982, f. & ef. 7-20-82

DIVISION 10

PREQUALIFICATION FOR BIDDING

734-010-0010

Definitions

The following definitions apply to terms used in Division 10 rules:

- (1) "AM" means Area Manager or the equivalent position.
- (2) "Applicant" means any individual or legal entity submitting a Contractor's Prequalification Application to ODOT.
- (3) "Authorized contractor representative" means the person authorized by the contractor to sign the prime contractor performance evaluation.
- (4) "Bidder" means any individual or legal entity submitting a proposal to an advertisement for a contract.
- (5) "Bid opening" means the day on which the bids for a highway project will be opened and read.
- (6) "CCM" means ODOT's Construction Contracts Manager.
- (7) "Commission" means the Oregon Transportation Commission.
- (8) "Contract" means public improvement contracts, as defined in ORS 279.011, awarded by the Oregon Department of Transportation under authority of ORS 279.712 and 366.205.
- (9) "Contractor" means the individual or legal entity that has entered into a contract with ODOT.
- (10) "DAS" means Oregon Department of Administrative Services.
- (11) "Date of Second Notification" means the date on which required construction work, including change order work and extra work, has been satisfactorily completed, except for minor corrective work, and the recording of daily time charges cease.
- (12) "Disqualification" means an action taken by ODOT to prohibit an applicant from becoming prequalified or from bidding on ODOT contracts.
- (13) "Engineer" means ODOT's Executive Deputy Director/Chief Engineer or authorized representative.
- (14) "Engineer's final decision" means the decision of ODOT's Executive Deputy Director/Chief Engineer acting through authorized representatives.
- (15) "Notice to Contractors" means the public announcement inviting bids for work to be performed or materials to be furnished.
- (16) "Notice to Proceed" means written notice from ODOT authorizing the contractor to begin the work.
- (17) "ODOT" means the Oregon Department of Transportation.
- (18) "PM" means the Project Manager representing ODOT on the project, including, but not limited to, an ODOT employee, local government representative, or consultant employed by ODOT or a local government. The PM is the Engineer's representative who directly manages and/or performs the engineering and administration of a contract.
- (19) "Revocation" means an action taken by ODOT terminating a contractor's prequalification and ability to bid on ODOT contracts.
- (20) "SCME" means ODOT's State Construction and Materials Engineer.
- (21) "Suspension" means action taken by ODOT to temporarily suspend a contractor's prequalification for a specified period of time.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039
 Stats. Implemented: ORS 279.039
 Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0020

Prequalification for Bidding

(1) Pursuant to ORS 279.039(1), the Commission requires that all bidders be prequalified within the appropriate class(es) of work contained in the current Contractor's Prequalification Application adopted by DAS and used by ODOT.

(2) Special contractor prequalifications may be required in addition to the mandatory prequalification in subsection (1) when the elements of a particular public improvement project requires specialized knowledge and/or expertise. When special prequalification is required, the Request for Special Contractor Prequalification will be advertised in the Daily Journal of Commerce.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039
 Stats. Implemented: ORS 279.039
 Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0030

Conditions of Prequalification

(1) Applicants must be prequalified in the class(es) of work designated in the special provisions for the specific project in which the applicant desires to bid on ODOT contracts.

(2) Prequalification applications must be received at ODOT's address shown in the prequalification application at least 10 calendar days before the bid opening in which the applicant wishes to participate.

(3) If an applicant fails to complete the application as required or fails to submit the filing fee, ODOT will return the material submitted. Any changes or additional information required by ODOT must be submitted and signed by the same person that signed the original application. The changes and additional information must be attested to by a sworn affidavit. The applicant may send a new application that includes the changes or additional information required by ODOT.

(4) The date on which all required information has been received by ODOT's Construction Contracts Unit will be considered the receipt date of the prequalification application.

(5) Each member of a Joint Venture must be prequalified, with at least one of the Joint Venture members prequalified in each of the project's designated class(es) of work as defined in section (1) of this rule. A Joint Venture may be required to submit a joint venture agreement prior to award of the contract.

(6) Subcontractors are not required to be prequalified.

(7) All applicants desiring to prequalify shall:

(a) Complete and submit the Contractor's Prequalification Application, in accordance with the directions contained therein, setting forth their qualifications to satisfactorily carry out the work to be performed. The prequalification application is available from the Construction Contracts Unit of ODOT, Salem, Oregon 97301-3871; and

(b) Submit a filing fee of \$100. In accordance with ORS 200.055(7), ODOT may collect a filing fee from applicants to cover the costs of the Department of Consumer and Business Services in administering ORS 200.005 to 200.075 and 279.059. The \$100 fee must be submitted with the completed prequalification application to ODOT's address shown in the prequalification application.

(8) ODOT shall notify an applicant of acceptance or denial of prequalification within 30 days after receiving applicant's complete prequalification application and filing fee.

(9) Prequalification is valid from March 1 of the current calendar year, or date of prequalification approval, if later, through the last day of February of the following calendar year. Applicants must renew their prequalifications with the \$100 filing fee annually.

(10) Applicants shall update their prequalification application with ODOT when information changes. Any change to an applicant's prequalification application must be received at ODOT's address shown in the prequalification application at least 10 days prior to bid opening if that information affects the bid submitted. Any changes requested by the applicant must be submitted and signed by the same person that signed the original application or by a person holding the same position as the person that signed the original application. The changes must be attested to by sworn affidavit. There is no charge to update an existing prequalification for minor changes such as changing an address, company name, or adding or deleting class(es) of work. Major changes must be submitted by a new prequalification application.

(11) OAR 734-010-0030, sections (2) through (10) also apply to applicants who use ODOT's prequalification system to prequalify for local agency projects.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039
 Stats. Implemented: ORS 279.039
 Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0040

Effect of Prequalification on Bidding

(1) Applicants shall be considered prequalified upon receipt of written notification from ODOT.

(2) Bidders will be considered non-responsive and bids will be rejected under any of the following conditions:

(a) The bidder's prequalification application is not received at ODOT's address shown in the prequalification application at least 10 days prior to bid opening;

(b) The bidder is not prequalified in the class(es) of work designated in the special provisions; or

(c) The bidder's prequalification is not approved by ODOT.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0050

Waiving Prequalification Requirements

Prequalification requirements for contracts may be waived by the Executive Deputy Director/Chief Engineer under the following circumstances:

(1) In the case of an emergency;

(2) If finding that special circumstances exist so that prequalification is not necessary; or

(3) For contracts under \$50,000.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0060

Disqualification, Revocation or Suspension

(1) Applicants must sign a sworn affidavit that the information they provide in the prequalification application is true. Any applicant for prequalification who willfully makes, or causes to be made, any false, deceptive or fraudulent statements in any questionnaire or statement required to be submitted under this rule, shall be denied prequalification or the applicant's current prequalification shall be revoked.

(2) If ODOT disqualifies an applicant or revokes a prequalification, the applicant or prospective bidder shall receive a written notice identifying the reasons for the disqualification or revocation as found in ORS 279.037.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0070

Appeals Covering Prequalification Application

(1) If ODOT denies an applicant's prequalification or revokes an existing prequalification, the applicant may appeal the denial or revocation by requesting a hearing with DAS in accordance with ORS 279.043 and 279.045. If the applicant wishes to appeal disqualification to DAS, the applicant must, within three business days after receipt of notice of disqualification, notify the CCM in writing.

(2) Upon receipt of such notice of appeal, the CCM will immediately notify the Director of DAS.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0080

Contractor Performance Evaluations

(1) This rule applies to contractors who must be prequalified to bid on ODOT contracts.

(2) Contractors who enter into contracts with ODOT after this administrative rule becomes effective, shall have their performance evaluated on each contract. The evaluation will be scored on the basis of a percentage score.

(3) The PM shall complete the evaluation using the current version of ODOT Form 734-2469, Prime Contractor Performance Evaluation.

(4) The performance criteria being evaluated include supervision, progress schedule, quality of materials and workmanship, payment, affirmative action, safety, traffic control, compliance with regulations, and major breaches.

(5) The evaluation shall be conducted as follows:

(a) If the duration of a contract is 12 months or less, the PM shall complete one evaluation within 60 days of date of Second Notification for the contract; or

(b) If the duration of a contract is over 12 months, the PM shall complete an evaluation at the anniversary date of the Notice to Pro-

ceed. In addition to annual evaluations, the PM shall complete an evaluation within 60 days of the date of Second Notification for the contract.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0090

Scoring Contractor Performance Evaluation

(1) Each evaluation will result in a percentage score, which is calculated by dividing the total score assigned by the total possible score times 100.

(2) After the percentage score has been calculated, the PM shall review the evaluation with an authorized contractor representative.

(3) Both the PM and authorized contractor representative shall sign and date the evaluation form. The signed and dated evaluation form will be forwarded to the SCME. The PM shall give a signed copy to the authorized contractor representative and shall transmit a copy by facsimile within 24 hours to the contractor's home office and to the appropriate AM. Overnight mail service shall be used if facsimile is not available.

(a) If an authorized contractor representative is unavailable or refuses to sign the evaluation form, the PM will sign and date the evaluation, and shall transmit a copy by facsimile to the contractor's address of record shown in the contract.

(b) If the contractor does not request review of the percentage score within 10 calendar days of receipt of the evaluation, pursuant to OAR 734-010-0160, the score is final.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0100

12-Month Rolling Average Score

(1) The individual contract percentage scores from evaluations for the preceding 12 months will be averaged for each contractor on a monthly basis to develop a rolling average. The rolling average score will be the average of all individual percentage scores received within the previous 11 months plus the current month. Contract evaluation scores that are more than 12 months old will not be included in the rolling average score.

(2) Calculation of the rolling average scores for all contractors will begin on January 1, 2001. Scores will be accumulated beginning January 1, 2000, but no averaging or corrective action will be taken until January 1, 2001.

(3) The rolling average score received will determine what corrective action ODOT shall take with a contractor whose performance falls within or below certain percentage ranges.

(4) This rule does not preclude ODOT from taking immediate and appropriate corrective action with contractors for serious breaches, as allowed for by the contract, by other rules, or by Oregon Revised Statutes.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0110

Scoring Ranges and Corrective Actions

(1) The scoring ranges and corrective actions are as follows, unless otherwise specified in section (2) or (3) of this rule. When a corrective action plan is required, see OAR 734-010-0120 for further information. Score — Action:

(a) 100–80 — No Action Required.

(b) < 80 ≥ 70 — A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(c) < 70 ≥ 60 — A mandatory three-month suspension of the Contractor's prequalification shall be imposed. A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(d) < 60 — A mandatory six-month suspension of the Contractor's prequalification shall be imposed. A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(2) Second Suspension. If a contractor receives a second suspension of its prequalification under this rule within a five-year peri-

od, the suspension period shall be double that of the first suspension period specified in section (1) of this rule, as follows:

(a) $< 70 \geq 60$ — A mandatory six-month suspension of the contractor's prequalification shall be imposed. A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(b) < 60 — A mandatory 12-month suspension of the contractor's prequalification shall be imposed. A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(3) Three or More Suspensions. If a contractor receives three or more suspensions of its prequalification under this rule within a five-year period, the suspension periods will be quadruple that of the initial suspension periods specified in section (1) of this rule, as follows:

(a) $< 70 \geq 60$ — A mandatory 12-month suspension of the contractor's prequalification shall be imposed. A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(b) < 60 — A mandatory 24-month suspension of the contractor's prequalification shall be imposed. A mandatory meeting with the SCME is required. A corrective action plan that is acceptable to ODOT is required.

(4) The following apply to future rolling averages:

(a) After any suspension, the percentage scores received prior to the beginning of the suspension will not be used in future rolling averages;

(b) If a project is more than 75% complete in dollars of the original contract amount at the beginning of the suspension, then its percentage score will not be part of the subsequent rolling average score; and

(c) If a project is 75% or less complete in dollars of the original contract amount at the beginning of the suspension period, an evaluation of only the work completed after the start of suspension will be used in the subsequent rolling average score.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0120

Corrective Action Plan

The purpose of the corrective action plan and the meeting with the SCME is to help the contractor improve processes and avoid low ratings in the future.

(1) If a contractor's rolling average score is $< 80 \geq 70$, the contractor shall meet with and present a written corrective action plan to the SCME within 21 days after receiving notice that the contractor has received a score in the $< 80 \geq 70$ range. The contractor will be allowed to bid during the 21 days and receive award for any proposal submitted during this period. After the 21 days, if a corrective action plan has not been presented to and approved by the SCME, the contractor will not be allowed to bid or receive award again until the corrective action plan has been submitted and approved by the SCME.

(2) If the rolling average score falls below 70 and the contractor's prequalification is suspended, a written corrective action plan must be submitted and approved by the SCME at least 30 days prior to the end of the suspension. If the corrective action plan is not submitted and approved by the SCME at least 30 days prior the end of suspension, the contractor will serve an additional 30 day suspension from the time the corrective action plan is approved by the SCME.

(3) When the SCME has approved the corrective action plan, the SCME shall notify the contractor and the CCM via facsimile (or mail if facsimile is not available). The SCME will also notify the CCM if the contractor does not have an approved corrective action plan as required under sections (1) and (2) of this rule.

(4) The CCM will notify the contractor via facsimile (or mail when facsimile is not available) once the contractor is eligible to bid again.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0130

Notification of Suspension from Bidding

(1) The SCME will notify ODOT's CCM when a contractor's score falls below 80.

(2) The CCM will notify the contractor via facsimile that its score has fallen below an acceptable level and that its prequalification has been suspended.

(3) The contractor may appeal a suspension through DAS by requesting a DAS appeal within three days of receipt of the suspension notice, as specified in OAR 734-010-0170.

(4) In all cases, any notification of suspension and reinstatement shall be made in writing and sent to the contractor by the CCM. The SCME will also be notified.

(5) The effective date of a suspension will be:

(a) Ten days after the date of the Engineer's final decision; or

(b) Ten days after the date any appeal becomes final.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0140

Suspension Record Retention

For purposes of use in these prequalification rules, contractor records of suspension shall be maintained for a five-year period from the date of suspension. A record of a contractor's suspension that is older than five years may not be used in calculating further suspensions.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0150

Effect of Suspension on Business

(1) Any disqualification, suspension or revocation from bidding or of a prequalification shall be binding upon the following:

(a) Any contractor so disqualified, suspended or revoked;

(b) Any business with which such contractor's owners, officers, directors or managing agents are associated;

(c) Any subsidiaries, affiliates, parent corporations, joint ventures, successors, assigns of the contractor; and

(d) Any entity in which the contractor, its owners, officers, directors and managing agents are owners, majority shareholders or such persons own in the aggregate a majority of shares, partners, directors, officers or agents, other than in a capacity solely as an employee of that other entity or business.

(2) Such disqualifications, suspensions or revocations of these other entities and businesses shall apply continuously during the contractor's period of disqualification, suspension or revocation.

Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039

Stats. Implemented: ORS 279.039

Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0160

ODOT's Review Process on Individual Contractor Performance Evaluation

(1) If a contractor disagrees with the PM's evaluation rating on a contract, the contractor shall meet with the PM to try to resolve differences. The request for a meeting must be made within 10 calendar days after receiving the evaluation rating. If the request is not made within 10 calendar days, the percentage score shall be considered the final score.

(2) The PM shall meet with the contractor to try to resolve differences within 10 calendar days after receiving the request. After this meeting is held, the PM shall notify the contractor within 10 calendar days of PM's final decision via facsimile (or overnight mail if facsimile is not available), and a copy shall be sent to the AM.

(3) If the contractor does not agree with the PM's findings, the authorized contractor representative may request a meeting of review with the AM. The request for a meeting shall be made in writing and sent to the PM. The written request must be received by the PM within 10 calendar days from the date that the contractor received the PM's final decision.

(4) If the authorized contractor representative does not request a meeting with the AM within 10 calendar days from the date of receipt of the PM's final decision, the percentage score shall be considered the final score.

(5) The AM shall notify the contractor of the review meeting date within 10 calendar days of receipt of contractor's request.

(6) The AM's decision shall be made within 10 calendar days of the meeting. The findings of the AM shall be the Engineer's final decision. The AM shall notify the contractor of the decision via facsimile (or overnight mail if facsimile is not available). A copy of the written decision shall be sent to the SCME.

(7) In all cases, when calculating calendar days, the first day will begin:

- (a) On the date facsimiles are sent by ODOT; or
 - (b) The day following overnight mail.
- Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039
 Stats. Implemented: ORS 279.039
 Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

734-010-0170

DAS Appeal Process Covering Contractor Evaluations

(1) In the event that a contractor's prequalification is suspended or revoked by ODOT, the contractor may appeal the suspension or revocation to DAS in accordance with ORS 279.043 and 279.045. If the contractor wishes to appeal disqualification as a bidder to DAS, the contractor must, within three business days after receipt of notice of disqualification, notify the CCM in writing.

(2) Upon receipt of such notice of appeal, the CCM will immediately notify the Director of DAS and the SCME.

(3) The Director of DAS will notify the appealing party and ODOT of the time and date of the hearing. The hearings appeal and final decision will take place in accordance with the statutory requirements and applicable DAS rules.

(4) If the suspension is upheld, the CCM will notify the contractor and the SCME when the suspension of the contractor's prequalification will begin.

- Stat. Auth.: ORS 184.616, 184.619 & ORS 279.039
 Stats. Implemented: ORS 279.039
 Hist.: TO 4-1999, f. 12-17-99, cert. ef. 1-1-00

DIVISION 17

CHAINS OR TRACTION TIRES

734-017-0005

Definitions

As used in OAR 734-017-0005 through 734-017-0025, the following definitions apply:

(1) "Traction Tire":

- (a) Tires with studs allowed under ORS 815.165;
- (b) Tires marked as mud and snow or all-season radial tires when used on vehicles exempt under ORS 815.145(4); and
- (c) Tires identified by the Rubber Manufacturers Association as meeting tests indicating the tire provides greater traction than mud and snow tires under winter driving conditions.

(2) "Chains" — Link chains, cable chains or another device that attaches to the wheel, vehicle or outside of the tire that is specifically designed to augment the traction of a vehicle under ice or snow conditions.

- Stat. Auth.: ORS 184.616, 184.619 & ORS 815.045
 Stats. Implemented: ORS 815.045 & ORS 815.140
 Hist.: 2 HD 15-1981, f. & ef. 11-20-81; HWY 4-1995, f. & cert. ef. 10-17-95; HWY 10-1997(Temp), f. 10-21-97, cert. ef. 11-1-97; TO 8-1998, f. & cert. ef. 9-14-98

734-017-0010

Minimum Chains Required

When signs are posted in accordance with Division 17 rules requiring chains on all or certain classes or vehicles, chains shall be placed as described in this rule and shown marked in black on Exhibit 1, Minimum Chains Required. Traction tires may be used in place of chains when the rated gross vehicle weight is 10,000 pounds or less and the vehicle is not towing or being towed.

(1) An automobile or light truck shall have chains on both tires of the drive axle.

(2) An automobile or light truck towing a trailer shall have chains on both tires of the drive axle and on two outside tires of at least one of the axles of a brake-equipped trailer.

(3) Buses:

(a) A single-drive axle bus shall have chains on the two outside tires of the drive axle;

(b) A tandem-drive axle bus shall have chains on the four outside tires of the drive axles; and

(c) A tandem-drive axle bus configured with one single-wheel axle and one dual-wheel axle shall have chains on the two outside tires of the dual-wheel axle.

(4) Solo trucks:

(a) A single-drive axle solo truck shall have chains on the two outside tires of the drive axle; and

(b) A tandem-axle solo truck shall have chains on:

(A) All four tires of the primary drive axle; or

(B) If both axles are powered by the drive line, on either all four inside tires or all four outside tires on both drive axles.

(5) Single-drive axle trucks with trailers:

(a) A single-drive axle truck towing a two or three-axle trailer shall have chains on all four tires of the drive axle and at least one tire on the front axle of the trailer and one tire on one of the rear axle(s) of the trailer;

(b) A single-drive axle truck tractor towing a semitrailer shall have chains on all four tires of the drive axle and two tires on either side of any axle of the semitrailer; and

(c) A single-drive axle truck tractor towing both a semitrailer and a trailer shall have chains on all four tires of the drive axle, two tires on either side of any axle of the semitrailer, and at least one tire on each axle of the trailer.

(6) Tandem-drive axle trucks with trailers:

(a) A tandem-drive axle truck towing a two or three-axle trailer shall have chains on at least two tires on each side of the primary drive axle, one tire of the front axle of the trailer, and one tire on one of the rear axles of the trailer;

(b) A tandem-drive axle truck tractor towing a semitrailer shall have chains on at least two tires on each side of the primary drive axle and two tires on either side of either axle on the semitrailer;

(c) A tandem-drive axle truck tractor towing both a semitrailer and two or three-axle trailer shall have chains on all four tires of the primary drive axle and on two tires of the secondary drive axle. Chains shall also be placed on two tires of either axle on the semitrailer and at least one tire on front and rear axle(s) of the trailer; and

(d)(A) A tandem-drive axle truck tractor towing a semitrailer and a semitrailer that are connected by kingpin-to-fifth wheel assemblies, commonly referred to as a "B-Train," shall have chains on all four tires of the primary drive axle and on two tires of the secondary drive axle. Chains shall also be placed on two tires on either side of any axle of the semitrailer at the B-train connection, and on two tires on either side of either axle of the rear semitrailer; or

(B) A tandem-axle drive truck tractor towing a semitrailer and a semitrailer that are connected by kingpin-to-fifth-wheel "C-dolly" assemblies, commonly referred to as a "C-Train," shall have chains on all four tires of the primary drive axle and on two tires of the secondary drive axle. Chains shall also be placed on two tires on either side of any axle of the semitrailer or C-dolly at the C-train connection and on two tires on either side of either axle of the rear semitrailer.

(7) Alternate tandem-drive axle trucks with trailers. A tandem-drive axle may meet the requirements of this rule if chains are on at least two tires on each side of the drive axles.

[ED. NOTE: Exhibits referenced in this rule are available from the agency.]

- Stat. Auth.: ORS 184.616, 184.619 & ORS 815.045
 Stats. Implemented: ORS 815.045 & ORS 815.140
 Hist.: 2 HD 15-1981, f. & ef. 11-20-81; HWY 4-1995, f. & cert. ef. 10-17-95; HWY 1-1996(Temp), f. & cert. ef. 2-14-96; HWY 5-1996, f. & cert. ef. 10-10-96; HWY 1-1997, f. & cert. ef. 2-24-97; HWY 10-1997(Temp), f. 10-21-97, cert. ef. 11-1-97; TO 8-1998, f. & cert. ef. 9-14-98

734-017-0012

Requirement to Carry Chains or Traction Tires

When chains or traction tires are required to be carried and the appropriate signs are posted, chains or traction tires of sufficient size and number to comply with Division 17 rules must be in the vehicle.

- Stat. Auth.: ORS 184.616, 184.619 & ORS 815.045
 Stats. Implemented: ORS 815.045 & ORS 815.140
 Hist.: TO 8-1998, f. & cert. ef. 9-14-98

734-017-0015

Use of Chains or Traction Tires

A Department of Transportation District Manager or persons authorized by a District Manager shall authorize the posting of appropriate signs and determine when weather conditions require the following:

- (1) Chains or traction tires must be carried but are not required to be used;
 - (2) Chains must be used on vehicles towing or with a rated gross vehicle weight (GVW) over 10,000 pounds; and
 - (3) Chains or traction tires must be used on all vehicles except those vehicles exempt in ORS 815.145 and division 17 rules.
- Stat. Auth.: ORS 184.616, 184.619 & ORS 815.045
 Stats. Implemented: ORS 815.045 & ORS 815.140
 Hist: 2 HD 15-1981, f. & ef. 11-20-81; HWY 4-1995, f. & cert. ef. 10-17-95; HWY 5-1996, f. & cert. ef. 10-10-96; HWY 10-1997(Temp), f. 10-21-97, cert. ef. 11-1-97; TO 8-1998, f. & cert. ef. 9-14-98

734-017-0020

Vehicles Exempt

(1) Vehicles described in ORS 815.145(4) when equipped with mud and snow or all-weather radial tires and those operated by the Department of Transportation and used in the maintenance of State Highways are exempt from the provisions of ORS 815.140 and division 17 rules.

(2) Buses that are not towing or being towed, are exempt from the requirement to use chains when chains are required on vehicles over 10,000 GVW if modifications to make the bus fully accessible to passengers with disabilities is the sole reason for the vehicle being rated over 10,000 GVW.

Stat. Auth.: ORS 184.616, 184.619 & ORS 815.045
 Stats. Implemented: ORS 815.045 & ORS 815.145
 Hist: 2 HD 15-1981, f. & ef. 11-20-81; HWY 4-1995, f. & cert. ef. 10-17-95; HWY 10-1997(Temp), f. 10-21-97, cert. ef. 11-1-97; TO 8-1998, f. & cert. ef. 9-14-98

734-017-0025

Signs

Signs to be used to post areas requiring “chains” or “chains or traction tires” are shown in detail in Exhibit 2, Signing.

[ED. NOTE: Exhibits referenced in this rule are available from the agency.]
 Stat. Auth.: ORS 184.616, 184.619 & ORS 815.045
 Stats. Implemented: ORS 815.045
 Hist: 2 HD 15-1981, f. & ef. 11-20-81; HWY 4-1995, f. & cert. ef. 10-17-95; HWY 5-1996, f. & cert. ef. 10-10-96; HWY 10-1997(Temp), f. 10-21-97, cert. ef. 11-1-97; TO 8-1998, f. & cert. ef. 9-14-98

DIVISION 20

TRAFFIC CONTROL

734-020-0005

Manual on Uniform Traffic Control Devices

(1) In accordance with ORS 810.200, the Millennium Edition of the Manual on Uniform Traffic Control Devices, including Revision no. 1 dated December 28, 2001 (U.S. Department of Transportation, Federal Highway Administration) is hereby adopted by reference as the manual and specifications of uniform standards for traffic control devices for use upon highways within this state.

(2) The March 2002 Edition of the Oregon Supplements to the Manual on Uniform Traffic Control Devices is hereby adopted by reference as a register of supplements and exceptions to the Millennium Edition of the Manual on Uniform Traffic Control Devices.

(3) The Oregon Department of Transportation 1996 Short Term Traffic Control Handbook is hereby adopted by reference as a standard for short-term traffic control.

[Publications: Publications referenced are available from the agency.]
 Stat. Auth.: ORS 184.616, 184.619 & ORS 810.200
 Stats. Implemented: ORS 810.200
 Hist.: HC 1270, f. & ef. 1-18-72; HC 1277, f. & ef. 3-3-72; 1 OTC 80, f. & ef. 12-27-76; 1 OTC 7-1978, f. & ef. 4-27-78; 1 OTC 15-1979(Temp), f. & ef. 7-18-79; 1 OTC 25-1979, f. & ef. 10-30-79; 1 OTC 16-1980, f. & ef. 9-18-80; 1 OTC 22-1980, f. & ef. 11-26-80; 1 OTC 23-1980, f. & ef. 11-26-80; 2HD 9-1983(Temp), f. & ef. 4-20-83; 2HD 16-1983, f. & ef. 9-23-83; 2HD 9-1984(Temp), f. & ef. 10-4-84; 2HD 1-1985, f. & ef. 3-29-85; 2HD 3-1985, f. & ef. 9-13-85; 2HD 1-1986, f. & ef. 2-14-86; 2HD 6-1986(Temp), f. & ef. 7-29-86; HWY 1-1987, f. & ef. 1-9-87; HWY 2-1988(Temp), f. & cert. ef. 5-27-88; HWY

7-1988, f. & cert. ef. 12-2-88; HWY 2-1990(Temp), f. & cert. ef. 2-1-90; HWY 10-1990, f. & cert. ef. 6-29-90; TO 3-2002, f. & cert. ef. 4-15-02

734-020-0010

Locations of 65 MPH Speed

Under the provisions of ORS 811.112, the following sections of interstate rural highway are established as 65 MPH maximum speed: **Highway — Mile Post**

- (1) I-5 — MP 11.00 to MP 27.00;
 - (2) I-5 — MP 33.35 to MP 107.83;
 - (3) I-5 — MP 108.86 to MP 190.40;
 - (4) I-5 — MP 196.00 to MP 251.00;
 - (5) I-5 — MP 261.03 to MP 288.60;
 - (6) I-82 — Washington State Line to MP 11.21;
 - (7) I-84 — MP 18.25 to Idaho State Line;
 - (8) I-205 WB — MP 0.30 to MP 6.00;
 - (9) I-205 EB — MP 0.90 to MP 6.00;
 - (10) Connection — I-205 MP 0.58 SB to I-5-MP 287.93 SB;
 - (11) Connection — I-5 MP 288.21 NB to I-205 MP 1.11 EB.
- Stat. Auth.: ORS 184.616 & ORS 810.180
 Stat. Implemented.: ORS 810.180 & ORS 811.112
 Hist.: 1 OTC 7(Temp), f. & ef. 11-15-73; 1 OTC 20, f. 1-28-74, ef. 2-11-74; 1 OTC 24(Temp), f. & ef. 3-1-74; 1 OTC 28, f. 6-5-74, ef. 6-25-74; HWY 5-1987, f. & ef. 12-8-87; HWY 3-1989, f. & cert. ef. 5-23-89; HWY 7-1990, f. & cert. ef. 4-18-90; HWY 3-1996, f. & cert. ef. 8-15-96

734-020-0015

Establishment of Speed Zones on Public Roads Except Low Volume or Non-Hard Surfaced

(1) Definitions:

(a) “Speed zone” means a lineal section of roadway with regulatory speed signs legally posted;

(b) “School zone exception” means that portion of a speed zone or speed zone section with appropriate signing to indicate a school zone or school crossing, where by statute the speed is 20 mph when children are present;

(c) “Transition speed” means a speed zone(s) established to make the change in legal speeds less abrupt for drivers. As an example, instead of going directly from a 55 mph section to 25 mph, it may be necessary to establish one or more transition speed zones in between, such as 45 mph and 35 mph;

(d) “Written order” means the official document which describes the limits and designates the speed in a speed zone or speed zones established;

(e) “Statutory speed zone” means a speed zone section with speeds based on the statutory definitions, as established in ORS 811.105 and 811.123;

(f) “Eighty-five percent speed” means the speed at or below which 85 percent of the vehicles for which speeds were recorded are traveling;

(g) “Average daily traffic volume” (ADT) means the number of vehicles in all lanes of traffic on a roadway regardless of direction at a spot location which reflects the total annual volume divided by the number of days in the year;

(h) “Accident rate” means the number of accidents per million vehicle miles traveled on a lineal section of roadway;

(i) “Arterial roadway” is a public facility linking regional or local residence or business districts to each other;

(j) “Collector roadway” is a public facility which functions to connect local residential streets to arterial roadways;

(k) “Highway” is a through road normally available for public use; and

(l) “Department” is the Oregon Department of Transportation.

(2) Speed Zone Criteria:

(a) The following rules apply for placing of speed zones on rural state highways under normal conditions:

(A) The 85th-percentile speed of existing traffic shall be determined;

(B) The average accident rate for similar areas statewide shall be determined;

(C) The accident rate for the specific section being considered shall be determined;

(D) The algebraic difference between the accident rate for similar statewide sections and the accident rate for the section being considered shall be determined;

(E) The safe speed shall be established as the algebraic difference of the 85 percent speed and the accident rate above the average accident rate as determined in paragraph (D) of this subsection; and

(F) The speed may be varied not to exceed five miles per hour, plus or minus, from that determined in paragraph (E) of this subsection as may be prudent due to volume of traffic, natural topographic or physical impediments, or for such other reasons as the Department may deem appropriate.

(b) Speed zones for state highways within city limits, arterial roadways with statewide or regional significance and major collector roadways of local significance and with average daily traffic volume greater than 500 vehicles per day shall be determined as follows:

(A) Engineering and traffic studies shall be made for determining the recommended speed for the proposed speed zone;

(B) A major factor in determining the recommended speed shall be the speed at or below which 85 percent of the vehicles sampled were traveling;

(C) The recommended speed may be reduced if the accident rate indicates that it is necessary;

(D) The recommended speed shall not normally be reduced more than 10 mph below the 85 percent speed;

(E) The section length used for speed zoning shall be at least one-quarter of a mile in length except transition speed zones may be a minimum of 1,000 feet in length; and

(F) The following items may also be considered in determining a recommended speed:

- (i) National and state policies on energy conservation;
- (ii) Local attitudes and enforcement;
- (iii) Pedestrian and bicycle movements;
- (iv) Environmental considerations (noise, dust);
- (v) Kind and amount of adjacent lane use; and
- (vi) Public testimony.

(3) Speed Zone Procedures:

(a) The Department of Transportation is subject to the following procedures while exercising its authority for speed zoning on rural state highways under ORS 810.180 unless otherwise provided under ORS 810.180:

(A) Written application to conduct an investigation with respect to speed on a highway under ORS 810.180 must be made to the Department, to the State Traffic Engineer or Region Manager. This application shall state the reason for the requested change in speed zoning;

(B) The Department shall determine the speed to designate under its authority by making or causing to be made an engineering and traffic investigation with respect to the existing speed on the highway;

(C) The Department may change the existing speed on the highway if the investigation establishes to the satisfaction of the Department that the existing designated speed is greater or less than reasonable or safe under the conditions at the area;

(D) The Department shall give written reply to the original request of the Department's determination concerning a designated speed;

(E) Written objections may be filed with the Department to any speed established by the Department under the procedures established in this section; and

(F) The original written order shall be retained in the Department of Transportation's records for each speed zone established. The speed zone becomes enforceable when signs are in place.

(b) The Department of Transportation is subject to the following procedures while exercising its authority under ORS 810.180 on state highways within city limits, arterial roadways with statewide or regional significance and major collector roadways of local significance and with average daily traffic volume greater than 500 vehicles per day unless otherwise provided under ORS 810.180:

(A) The road authority shall make written application to the State Traffic Engineer for the Department to conduct an investigation with respect to speed on a highway under ORS 810.180. This application shall state the speed recommended for the highway or section of highway by the requesting road authority;

(B) The Department shall determine the speed to designate under its authority by making or causing to be made an engineering

and traffic investigation with respect to the existing speed on the highway;

(C) The Department may make the investigation required or, when requested by the road authority, may allow the road authority to make the investigation and make a report of the investigation to the Department;

(D) The Department shall allow any road authority that is requesting an investigation under this section to participate with the Department in the investigation;

(E) The Department may change the existing speed on the highway if the investigation establishes to the satisfaction of the Department that the existing designated speed is greater or less than reasonable or safe under the conditions at the area;

(F) The Department shall give written notice to the affected road authority of the Department's determination concerning a designated speed;

(G) The Department shall issue a Speed Zone Order if the designated speed is mutually agreeable to all affected jurisdictions. When differences of opinion between the State and local agency(ies) occur, the Department standard criteria as set forth by rule shall be used in reaching a mutually agreeable compromise. If mutual agreement cannot be reached, the matter shall be referred to the Speed Zone Review Panel;

(H) An affected road authority may file written objections to any speed established by the Department under the procedures in this section. If the road authority files a written objection and requests a hearing not more than 10 days after signs establishing the speed are posted, the Department shall refer the contested speed zone to the Speed Zone Review Panel. The Speed Zone Review Panel shall hold a hearing to reconsider and establish the speed after giving written notice of the hearing to the affected road authority. The hearing shall be held more than ten days after giving the written notice; and

(I) A copy of the written speed zone order shall be filed with the local agency as appropriate and the original retained in the Department of Transportation's records for each speed zone established. The speed zone becomes enforceable when signs are in place.

(4) Emergency Speed Zones: An emergency may be declared by the Department or State Traffic Engineer due to natural or other disasters. Once an emergency has been declared, the State Traffic Engineer may establish an emergency speed zone under the provision of this section:

(a) The following rules are for placing speed zones on rural state highways under emergency conditions:

(A) Speed shall be established at such levels as the State Traffic Engineer deems prudent;

(B) In establishing such speeds, the State Traffic Engineer shall consider the volume of traffic, the condition of the roadway, the weather, or any other conditions which should be considered to insure that traffic passes through the area in safety;

(C) The speed zone shall have the full force and effect of law as long as needed to insure safe traffic conditions in the area; and

(D) Such speed zones shall be removed when the condition necessitating their designation has been removed or corrected.

(b) An emergency speed zone on state highways within city limits, arterial roadways with statewide or regional significance and major collector roadways of local significance and with average daily traffic volume greater than 500 vehicles per day shall be established after mutual telephonic agreement between the local agency having jurisdiction (with mutual concurrence in the case of joint jurisdiction) and the State Traffic Engineer. The emergency speed zone becomes effective upon posting by the appropriate agency:

(A) If an emergency speed zone is established on a local agency's facility as a temporary route of a state highway, the procedure as outlined in subsection (4)(b) of this rule shall be followed, except the actual posting may be accomplished by state forces and state materials with the mutual consent of the local agency or agencies involved;

(B) The Department's standard criteria shall be adhered to in so much as practical in such a determination;

(C) After establishment of a temporary emergency speed zone on a specific section of roadway where the speed of traffic is connected with or contributes to the relief of a problem, a field investigation shall be initiated. The findings of the investigation shall be utilized to provide the basis for termination of the temporary

emergency speed zone by the end of the 120-day limit or the Department's decision to make the temporary action permanent;

(D) In the event that the investigation is not completed by the end of the 120 day period, the temporary speed zone shall terminate and the previously posted speed shall be re-established by the appropriate agency; and

(E) When an emergency speed zone is established, the Department shall file a copy with the local agency affected and retain the original in the Department's records.

(5) Speed Zone Review Panel:

(a) The Speed Zone Review Panel is created to conduct hearings for deciding contested speed zone recommendations on state highways within city limits, arterial roadways with statewide or regional significance and major collector roadways of local significance and with average daily traffic volume greater than 500 vehicles per day under ORS 810.180. The panel shall consist of the following five persons:

(A) The Chair of the Transportation Safety Committee or a representative designated by the Chair;

(B) The Superintendent of State Police or a representative designated by the superintendent;

(C) The Chief Engineer of the Department of Transportation or a representative designated by the engineer;

(D) Two additional members, one representative of the interests of cities and one representative of the interests of counties. The League of Oregon Cities and the Association of Oregon Counties may each appoint a member representing the interests of cities and counties respectively. Each additional member appointment shall be for two years.

(b) The Department shall be responsible for and pay from the State Highway Fund all of the following expenses: the per diem travel and other expenses of the members of the Speed Zone Review Panel for the purpose of conducting hearings on speed zone appeals;

(c) The Speed Zone Review Panel shall conduct a hearing to decide speed zone appeals on city and county roads when a reasonable agenda of contested speed zone recommendation is accrued:

(A) The State Traffic Engineer shall arrange the hearing date and present the speed zone appeals;

(B) All affected jurisdictions and any known interested parties shall be notified of the hearing in writing at least 30 days prior to the hearing. The opportunity to present testimony in person or in writing shall be included in the notice of hearing date;

(C) Written testimony received by the State Traffic Engineer at least three days prior to the hearing shall be considered in the speed zone appeal review; and

(D) The criteria and procedures established under ORS 810.180 and by rule for determining speed zoning shall be followed in deciding the appeals. The decision of the panel is final and any speed zone order shall be issued accordingly. The order is effective when signs are installed.

Stat. Auth.: ORS 184.616 & ORS 810.180

Stats. Implemented: ORS 810.180

Hist.: HC 1277, f. 3-3-72; HWY 4-1994, f. 9-19-94, cert. ef. 1-1-95

734-020-0020

Warrants for Parking and Turn Prohibitions

(1) Parking prohibitions and turn prohibitions shall be warranted if:

(a) An engineering investigation indicates that such prohibitions will improve safe traffic operating conditions; or

(b) An engineering investigation indicates that such prohibitions are necessary to increase the capacity of the roadway or to otherwise expedite the movement of traffic.

(2) The engineering investigation will include a review and analysis of the past accident history, a study of the traffic volumes, patterns and turning movements when appropriate. A field investigation of the physical conditions will be made when required.

Stat. Auth.: ORS 184 & ORS 810

Stats. Implemented: ORS 810.160 & ORS 810.210

Hist.: 1 OTC 53, f. 3-3-75, ef. 3-25-75

734-020-0025

U-Turn Designation

The Chief Engineer may, in his discretion, designate specific signalized intersections in which U-turns shall be permitted if the following criteria are met:

(1) The turning radii are adequate.

(2) The signal operation consists of three or more phases.

(3) A turning movement is possible with a reasonable degree of safety.

(4) A traffic engineering investigation shows a need for the U-turn movement.

Stat. Auth.: ORS 184 & ORS 810.130

Stats. Implemented: ORS 810.130(3)

Hist.: 1 OTC 78(Temp), f. & ef. 9-3-76; 1 OTC 79, f. & ef. 12-9-76

Guidelines and Equipment Specifications for Portable Traffic Signals

734-020-0032

Definitions

(1) "Portable Traffic Signals" means any device that complies with the adopted guidelines for portable traffic signals.

(2) "User" means the agency, contractor, or utility that is physically responsible for the operation of the portable traffic signal.

(3) "Operator" means the individual employed by the user that will actually control the portable traffic signal.

(4) "Agency" means the governing institution which has authority over the effected roadway.

Stat. Auth.: ORS 184 & ORS 810.200

Stats. Implemented: ORS 810.200

Hist.: 2HD 14-1983(Temp), f. & ef. 8-18-83; 2HD 3-1984, f. & ef. 3-14-84

734-020-0034

Guidelines

(1) Portable traffic signals shall only be used in accordance with the appropriate permit or contract specifications as issued by the governmental agency.

(2) The permit or contract specifications may specify the hours, days, and periods of operation.

(3) The permittee or contractor shall provide a traffic control plan showing the locations of all portable traffic signal equipment, as well as any other traffic control devices to be used in conjunction with the portable traffic signal, to the Project Manager for approval prior to obtaining the permit.

(4) The permittee or contractor shall maintain a daily log at the signal site which shall include, but is not limited to, hours of operation, type and time of any equipment malfunctions, and type and time of any accidents that may have occurred during the operation of the portable traffic signal. A copy of the completed log shall be presented to the agency upon completion of the project or as required by the Project Manager.

(5) Operators shall be properly instructed in the safe and efficient operation of the system by the manufacturer and so certified in writing to the Project Manager.

(6) Portable traffic signal equipment, as well as other traffic control devices used in conjunction with the project, shall conform to portable traffic signal equipment specifications, as published by the Oregon Department of Transportation, as well as applicable portions of the **Manual on Uniform Traffic Control Devices**.

(7) Portable traffic signals shall not be used at locations where the posted construction speed is in excess of 35 MPH.

(8) Portable traffic signals should not be used at locations where there is more than one travel lane in each direction. However, they may be permissible on divided four-lane roadways, two lanes in each direction, if a separate set of signal heads is provided for each additional travel lane.

(9) The user may request specific signal phasing, as well as the length of amber and the minimum green and red periods. Final approval for timing will be given by the appropriate local agency or by the Department of Transportation's Region office, if the location is on the State Highway System. Signal timing will conform to the **Manual on Uniform Traffic Control Devices**. A preemption input that will terminate the existing green phase, provide a yellow clearance interval, and rest in an all red phase shall be available to the operator during emergency conditions.

(10) Minimum sight distances shall be maintained as specified in the **Manual on Uniform Traffic Control Devices**. At locations where only minimum sight distances can be obtained and where varying queue sizes are anticipated, the user shall also furnish a queue flagger who shall maintain direct communication with the operator.

(11) Portable traffic signal controllers and related control equipment shall be certified as having passed the Oregon Department of Transportation laboratory tests. Successfully tested controllers and related control equipment will be assigned permanent certification tags.

(12) The user shall either remove or cover all signal indications and related traffic signs when not in use.

(13) All radio equipment used as part of a portable traffic signal shall meet Federal Communications Commission regulations.

(14) Failure to comply with any of the specifications shall be justification for requiring an alternative type of traffic control.

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

Stat. Auth.: ORS 184 & ORS 487

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: 2HD 14-1983(Temp), f. & ef. 8-18-83; 2HD 3-1984, f. & ef. 3-14-84

High Occupancy Vehicle Lanes

734-020-0043

High Occupancy Vehicle Lane on Interstate 5

(1) One northbound lane of Interstate 5 from milepoint 303.98 to milepoint 307.49 is reserved for exclusive use by high occupancy-use passenger vehicles as designated.

(2) For purposes of this rule, the following definitions apply:

(a) "Designated" means signed as specified in section (4) of this rule;

(b) "High occupancy-use passenger vehicle" means passenger vehicles of 8,000 pounds or less carrying the driver and one or more additional passengers, and motorcycles or buses regardless of occupancy level;

(c) "High occupancy vehicle lane" or "HOV lane" means a lane reserved only for high occupancy-use passenger vehicles; and

(d) "Reserved for exclusive use" means only high occupancy-use passenger vehicles may use the lane when so indicated by signs or pavement markings specified in section (4) of this rule.

(3) Emergency vehicles may use the HOV lane when engaged in emergency action.

(4) The HOV lane shall be designated by signs or pavement markings as defined in the Manual on Uniform Traffic Control Devices or other approved signs and markings not in conflict with Oregon or Federal Highway Administration regulations. Signs may specify the times or days when the lane is designated as a HOV lane.

Stat. Auth.: ORS 184.616, 184.619 & ORS 810.140

Stats. Implemented: ORS 810.140

Hist.: TO 9-1998, f. & cert. ef. 9-14-98

734-020-0045

Prohibition of Non-Motorized Vehicles on Freeways

(1) Non-motorized vehicles are prohibited upon the following segments of freeways within the State of Oregon:

(a) Portland area:

(A) The Columbia River Highway No. 2 (Banfield/I-84) from its intersection with I-5, M.P. 0.00, to 122nd Avenue, M.P. 10.25, east bound, and to Sandy Boulevard, M.P. 15.14, west bound;

(B) The Sunset Highway No. 47 easterly of the Jefferson Street Interchange, M.P. 73.35;

(C) Interstate 5 (Hwy. No. 1) from the Beaverton - Tigard Highway Interchange, M.P. 292.20, to the Delta Park Interchange, M.P. 306.70;

(D) Interstate 205 (Hwy. No. 64) northerly of the Overcrossing of the Oswego Highway No. 3, M.P. 8.82;

(E) Interstate 405 (Hwy. No. 61) in its entirety; and

(F) Lower Columbia Highway No. 2W from its intersection with I-405, M.P. 0.00, to 23rd Street, M.P. 1.99.

(b) Medford area: Interstate 5 (Pacific Highway No. 1) from the Barnet Road Interchange, M.P. 27.58, to the Crater Lake Highway Interchange, M.P. 30.29 (in Medford).

(2) The closure of the above sections to non-motorized vehicles shall become effective following the erection of adequate signing.

Stat. Auth.: ORS 184.619, 810.020 & ORS 810.030

Stats. Implemented: ORS 810.020 & ORS 810.030

Hist.: HC 1280, f. & ef. 4-5-72; HWY 2-1987, f. & ef. 2-6-87; HWY 4-1987, f. & ef. 11-24-87; HWY 2-1996(Temp), f. 3-7-96, cert. ef. 5-1-96; HWY 2-1996(Temp), f. 3-7-96, cert. ef. 5-1-96

Bicycle Lanes and Paths

734-020-0055

Bicycle Lane Definition

A bicycle lane as defined by ORS 801.155(6) shall be separated from the adjacent roadway by a single, solid eight-inch wide white stripe.

Stat. Auth.: ORS 810

Stats. Implemented: ORS 810.200

Hist.: 1 OTC 9-1979(Temp), f. & ef. 5-17-79; 1 OTC 19-1979, f. & ef. 9-14-79

734-020-0060

Design and Construction of Bikeways

(1) The Department of Transportation adopts by reference The American Association of State Highway and Transportation Officials, "**Guide for the Development of Bicycle Facilities**," (**Guide**), dated August, 1991, to establish bikeway design and construction standards, to establish guidelines for traffic control devices on bikeways including location and type of traffic warning signs and to recommend illumination standards, all in accordance with and pursuant to ORS 366.514, 184.616, 184.619, and 366.205.

(2) The following constitute supplements and exceptions to the August, 1991 Edition of the "**Guide for the Development of Bicycle Facilities**":

(a) Signing and Marking:

(A) All bicycle signing and markings on the State Highway System or installed on local city streets or county roads under state contract or agreement shall be in conformance with the current Department of Transportation "**Sign Policy and Guidelines for the State Highway System**" and the "**Traffic Line Manual**." Any signing or markings not included in these guidelines or manual, but which is deemed necessary and required for the bicycle facility shall conform to the **Manual on Uniform Traffic Control Devices** as adopted by the Oregon Transportation Commission;

(B) The standard width longitudinal painted solid line separating the motor vehicle travel way and a bike lane shall be a solid nominal eight-inch wide white stripe as required by OAR 734-020-0055; and

(C) The desirable width for a one-way bike lane on the State Highway System or installed on local city streets or county roads under state contract or agreement is six feet. Where six feet is not practical to achieve because of physical or economic constraints, a minimum width of four feet may be designated as a bike lane.

(b) Definitions: For the purpose of this rule and the **Guide**, the definitions on pages two and three of the **Guide** shall control, rather than any conflicting statutory or rule definitions. Terms not defined in the **Guide** shall be given their ordinary every day interpretation, even if defined otherwise for use in specific chapters in the Oregon Revised Statutes.

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

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 366.514

Stats. Implemented: ORS 366.514(4) & ORS 810.200

Hist.: 1 OTC 38, f. 9-26-74, ef. 10-25-74; 2HD 7-1983, f. & ef. 2-18-83; HWY 3-1988, f. & cert. ef. 5-27-88; HWY 1-1992, f. & cert. ef. 2-11-92

Winter Recreation Parking Areas

734-020-0070

Fee for Issuance of Parking Permits

(1) The fee for parking permits in winter recreation parking areas (Sno-Parks) shall be as follows:

(a) One day — \$3;

(b) Three consecutive days — \$7; or

(c) Annual, beginning each November — \$15.

(2) Persons appointed by the Department of Transportation for issuance of Sno-Park permits may charge an additional handling fee as provided in OAR 735-080-0000.

Stat. Auth.: ORS 184.616, 811.595 & ORS 811.600

Stats. Implemented: ORS 811.600

Hist.: 1 OTC 23-1979(Temp), f. & ef. 9-24-79; 1 OTC 28-1979, f. & ef. 11-26-79; 2HD 4-1982, f. & ef. 10-5-82; 2HD 17-1983, f. & ef. 9-23-83; HWY 13-1992, f. & cert. ef. 10-20-92; HWY 7-1993, f. & cert. ef. 10-27-93; HWY 9-1997, f. &

cert. ef. 9-22-97; TO 2-1999(Temp), f. & cert. ef. 9-3-99 thru 2-29-00; TO 1-2000, f. & cert. ef. 1-19-00

State Highway Right-of-Way Parking

734-020-0080

General Policy

It is the policy of the Oregon Transportation Commission to permit the Chief Engineer to define areas within the state highway rights-of-way in which overnight parking of any motor vehicle shall be prohibited. Accessible areas are provided and motorist usage will be permitted for reasons of safety and rest by drivers in need thereof and to permit viewing of scenic vistas.

Stat. Auth.: ORS 366, 390 & ORS 810

Stats. Implemented: ORS 810.030 & ORS 810.160

Hist.: 2HD 4-1981(Temp), f. 7-22-81, ef. 7-23-81; 2HD 8-1981, f. & ef. 10-2-81

734-020-0085

Parking Regulations

(1) At defined areas requiring parking regulation, the Chief Engineer shall install signs using the legend **"NO OVERNIGHT PARKING — PARKING (Between 1:00 a.m. and 5:00 a.m.) PROHIBITED."** Such signs shall be installed at locations visible to a driver and frequently enough at any one area to properly advise a driver of the parking restriction.

(2) Emergency parking shall be permitted in areas of regulated parking.

Stat. Auth.: ORS 366, 390 & ORS 811

Stats. Implemented: ORS 810.030 & ORS 810.160

Hist.: 2HD 4-1981(Temp), f. 7-22-81, ef. 7-23-81; 2HD 8-1981, f. & ef. 10-2-81

734-020-0090

Criteria for Parking Regulation

(1) If overnight parking in waysides, rest areas and winter recreational parking areas creates traffic and/or personal safety hazards, visible sanitation problems, sanitation problems not directly discernible, interferes with normal highway maintenance procedures or interferes with public usage for reasons of traffic safety or the intended use of the location, then the Chief Engineer shall regulate parking.

(2) If parking overnight or otherwise on beach access roads and all other accessible areas on state highways creates any type of safety hazard, visible sanitation problems, sanitation problems not directly discernible or interferes with normal highway maintenance procedures, or the intended use of the location, then the Chief Engineer shall regulate parking.

(3) The extent of parking regulation and the areas to be regulated shall be determined by a study of the areas.

Stat. Auth.: ORS 366, 390 & ORS 811

Stats. Implemented: ORS 810.030 & ORS 810.160

Hist.: 2HD 4-1981(Temp), f. 7-22-81, ef. 7-23-81; 2HD 8-1981, f. & ef. 10-2-81

Prohibited Activities on State Highway Right-of-Way

734-020-0095

Prohibited Activities

(1) The following activities are prohibited on the right-of-way of any state highway as defined by ORS 377.710(34):

(a) Lighting of fires;

(b) Depositing refuse of any kind except in designated containers;

(c) Camping or staying overnight, or any establishment of occupancy or of a residence, whether temporary or permanent; and

(d) Erection of any building or facility, including but not limited to tents, shacks, lean-tos, stands or shelters of any kind.

(2) This rule does not apply to rest areas covered under OAR chapter 734, division 30.

(3) Violation of subsection (1)(c) or (d) of this rule will subject the violating party to a possible citation for criminal trespass under the laws of this state.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 810.030

Hist.: 2HD 9-1981(Temp), f. & ef. 10-2-81; 2HD 18-1981, f. & ef. 11-24-81

Use of Freeway Median Crossovers

734-020-0100

Definitions

(1) "Freeway" means a fully access controlled throughway.

(2) "Median" means the space between inside shoulders of the separated one-way roadways of a freeway.

(3) "Crossover" means a surfaced roadway crossing the median and located generally at right angles to, between and connecting the inside or median shoulders of the separate through roadways of a freeway.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 810.030

Hist.: 2HD 5-1981, f. & ef. 10-2-81

734-020-0105

Criteria for Approval of Freeway Median Crossovers

(1) A freeway median crossover may be approved and constructed if the following criteria are met:

(a) The median is 40 or more feet in width measured at right angles between the edges of the inside paved shoulder and does not have a metal or concrete median barrier;

(b) The crossover is in a location providing adequate vehicle stopping and sight distance and other safety requirements;

(c) The crossover is three or more miles distant in either direction from an interchange, measured to the center of the undercrossing or overcrossing structure; and

(d) The crossover is one or more miles distant in either direction from any other entrance or exit ramp, (i.e., safety rest area), and 1/2 mile or more distant in either direction from an undercrossing or overcrossing structure measured to the center of the structure.

(2) The criteria of section (1) of this rule establishes the standards for all freeway median crossovers in this state. However, if one or more of those criteria are not met, the Chief Engineer, considering need and safety, may approve and order the construction and installation of a freeway median crossover following and based upon an engineering investigation.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 810.030

Hist.: 2HD 5-1981, f. & ef. 10-2-81; 2HD 8-1982(Temp), f. & ef. 12-28-82; 2HD 12-1983, f. & ef. 5-18-83

734-020-0110

Conditions under which Crossovers May Be Utilized

(1) In a bona fide emergency (emergency means a serious physical injury or substantial property damage requiring immediate response).

(2) Under fully signed and protected traffic control conditions, or under official pilot car or traffic escort conditions which are under the direction and control of highway or police personnel.

(3) For official state police operations, i.e., accident or incident response and expeditious, fuel efficient law enforcement.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 810.030

Hist.: 2HD 5-1981, f. & ef. 10-2-81

734-020-0115

Persons Authorized to Use Crossovers

(1) Personnel operating Department of Transportation maintenance vehicles.

(2) Police officers.

(3) Personnel operating any fire department emergency response vehicle.

(4) Personnel operating public or privately owned ambulances, paramedic or authorized emergency service vehicles, if the agency or firm has received prior approval from the Department of State Police or the Department of Transportation.

(5) Any personnel operating public or privately owned towing vehicles or towing equipment, if the agency or firm has received prior approval from the Department of State Police or the Department of Transportation.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 810.030

Hist.: 2HD 5-1981, f. & ef. 10-2-81

One-Way Operation for Trucks and Buses

734-020-0120

General Policy

It is the policy of the Oregon Transportation Commission to establish one-way operation for trucks and buses on certain sections of the State Highway System on which there has been a demonstrated need due to accidents.

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 810.030
 Hist.: 2HD 6-1981, f. & ef. 10-2-81

734-020-0125**One-Way Traffic Regulations**

On defined sections of state highways the Chief Engineer shall install signs for each direction of traffic using the legend **"ONE-WAY TRAFFIC FOR TRUCKS AND BUSES AHEAD"** and **"ONE-WAY TRAFFIC FOR TRUCKS AND BUSES"** at the beginning of the defined section.

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 810.030
 Hist.: 2HD 6-1981, f. & ef. 10-2-81

734-020-0130**Criteria for One-Way Operation**

(1) A field investigation shall be made for each section of highway on which one-way operation may be required. The following field data shall be recorded:

- (a) Curb to curb width for the bridge tunnel or underpass;
- (b) Sight distance on both approaches based on geometric design and/or other obstructions;
- (c) Typical cross-sections;
- (d) Location of the striped centerline with respect to pavement edge or curb; and
- (e) Approach speeds.

(2) The following cases may be considered:

(a) If curb to curb distance or roadway width is more than 20 feet and the painted centerline is centered in the roadway, one-way operation will not normally be established if there are no speed restrictions (i.e., 55 MPH maximum basic rule under 55 maximum);

(b) Curb to curb or roadway width 20 feet or less may be considered for one-way operation;

(c) Any consideration of one-way operation shall consist of a review of the past accident history for the section involved including structural damage accidents;

(d) Sections of existing roadway already signed for one-way truck and bus operation shall be reviewed based on these rules and engineering judgment. No existing one-way operation for trucks and buses shall be removed without prior approval of the Chief Engineer;

(e) A written report shall be prepared.

(3) The Traffic Engineer shall maintain a complete file of all investigations and reports and a record of approved sections on the State Highway System. As needed, a report under delegated authority will be prepared for the Chief Engineer by the Traffic Engineer.

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 810.030
 Hist.: 2HD 6-1981, f. & ef. 10-2-81

Multiple Right or Left Turns at Highway Intersections**734-020-0135****General Policy**

The Oregon Transportation Commission has delegated the authority to the Chief Engineer to designate intersections on the State Highway System to and from which multiple right or left turns may safely be accomplished and where vehicle capacity dictates this traffic engineering feature for the convenience of the motoring public.

Stat. Auth.: ORS 184, 366 & ORS 301
 Stats. Implemented: ORS 810.200
 Hist.: 2HD 7-1981, f. & ef. 10-2-81; 2HD 7-1984, f. & ef. 4-18-84

734-020-0140**Criteria for Multiple Left or Right Turn Movements**

(1) Multiple left or right turns will only be authorized on the basis of an engineering study to review any accident or safety problems that might result. The study may include the following items:

(a) The engineering study may include a capacity analysis. The analysis must clearly demonstrate an improved level of service with multiple turning movements and/or with other considerations not to lower the level of service;

(b) Delay and backup of traffic in the approach under consideration will be a factor in the engineering study to implement the multiple turn treatment;

(c) The multiple-turn engineering study may involve turns from the local agency street or roadway system at the approaches to the State Highway System;

(d) The engineering study will consider truck or other wide turning path vehicles and adequate multiple turning lane widths; and

(e) A part of every study will consider special striping or raised pavement markers to delineate the multiple turning movement and advance signing as required.

(2) The Traffic Engineer will maintain a file on all new approved locations.

(3) Proposed locations involving traffic on side streets at the approach to the State Highway System will have as a part of the file a written notification of intent to the local agency.

Stat. Auth.: ORS 184, 366 & ORS 810
 Stats. Implemented: ORS 810.200
 Hist.: 2HD 7-1981, f. & ef. 10-2-81; 2HD 7-1984, f. & ef. 4-18-84

Removal of Spilled Vehicle Loads and Wrecked Vehicles from Traveled Portion of State Highways**734-020-0145****Removal of Cargo or Debris**

(1) Whenever cargo is spilled or lost, or any other debris or items are deposited or left upon a state highway, any and all items, including wrecked, stalled or struck vehicles, trailers or cargo, which prevent safe passage in at least one lane of a two lane highway or one or more lanes in one direction of a multi-lane highway, are deemed to be obstructions which interfere with the maintenance and operation of state highways. As obstructions, these items are further deemed to interfere with the free flow of traffic and are a hazard to the motoring public. Such obstructions are found to be a threat to public safety (e.g., are impediments to emergency vehicles, create dangers of spillage of flammable materials and toxic substances, result in unexpected congestion and quick stops, and draw crowds of onlookers); and to result in public inconvenience; and, therefore, should be removed in the most expedient manner possible for the protection of the public. Under the general police power the Oregon Department of Transportation may remove such items or vehicles, or order such removed.

(2) Whenever such obstruction occurs, except in instances where the obstruction can be removed within a reasonable time without damage to the cargo or vehicles, the District Manager, or Assistant District Manager, or if both are not available, the Region Manager or other appropriate members of the Region Manager's staff, should be notified at once. A decision shall be made and approval must be received from one of the above individuals before department employees may take any action to remove the obstruction. In making the determination to remove the obstruction by department employees, and to return the highway to normal traffic operations the following considerations may be made, however, this list may not be exhaustive of all considerations and some may not be appropriate considerations in each instance:

- (a) Time of day the obstruction occurred and was discovered;
- (b) Location of the obstruction;
- (c) The hazard which it creates;
- (d) Weather conditions;
- (e) The type and condition of highway;
- (f) Traffic volume;
- (g) The type of vehicle, and the nature of the cargo or other items and any special characteristics of each which may impact on the extent of the hazard; and
- (h) Availability of equipment for removal of the hazard and types of equipment which may be reasonably available.

(3) If, after consideration of the above factors, a determination is made that removal of the obstruction by highway employees would be in the interest of the general public, the removal may be ordered. The method of removal and guidelines for the safe keeping of the vehicle, cargo or item shall be discretionary and are to be determined by the District Manager, in conjunction with law enforcement and environmental protection agencies when appropriate, and shall be immediately transmitted to the department employees at the scene of the obstruction.

(4) Alternative methods of removal by other than department employees may be considered. In considering this alternative, in addition to the above criteria, other considerations may include whether removal of the obstruction by the owner of the vehicle or cargo will result in further interference with highway traffic; protection of the cargo, vehicle or other items; resulting damage to highway property, including highway surface; the time required for removal and the likelihood of successful removal.

(5) The safety and convenience of highway traffic shall always be the major consideration; however, once the method of removal has been determined, the department employee shall take reasonable care to ensure that unnecessary damage does not occur to the vehicle, cargo or item which is being removed, while still utilizing the method of removal directed and taking reasonable precautions for removed items. All discretionary decisions for removal and method of removal shall be made in light of the nature of the hazard and the need for speedy removal, and the resources and equipment available for speedy removal.

Stat. Auth.: ORS 184 & ORS 366
Stats. Implemented: ORS 366.445 & ORS 810.030
Hist.: 2HD 11-1981, f. & ef. 10-2-81

Disabled, Abandoned, or Otherwise Unattended Vehicles on State Highways

734-020-0147

Disabled, Abandoned, and Otherwise Unattended Vehicles on State Highways Constituting Hazards or Obstructions to Motor Vehicle Traffic

(1) As used in this rule, the following definitions apply:

- (a) "Freeway" means fully access-controlled throughway;
- (b) "Expressway" means limited access-controlled throughway;
- (c) "Interstate" means the National System of Interstate and

Defense Highways that are marked with the distinctive red/white/blue route shields; and

(d) "State Highway" means the State Highway System as designated by the Oregon Transportation Commission, including the Interstate system.

(2) Pursuant to ORS 819.120, a vehicle that is disabled, abandoned, parked or left standing unattended on a state highway constitutes a hazard or obstruction to motor vehicle traffic and may be taken into immediate custody and removed by an appropriate authority as defined in ORS 819.140, when such vehicle meets any of the following criteria:

(a) Any vehicle, any part of which is on or extends within the travel portion of any state highway as identified by painted edge lines, or when there are no edge lines, other clear delineation of the travel portion from the highway shoulder;

(b) Any vehicle, any part of which is on or extends onto the inside or median paved shoulder (i.e., next to the high speed lane) of a freeway; or

(c) Any vehicle, any part of which is on or extends within a paved shoulder of:

(A) Any freeway or expressway within the city limits of any city in this state during the hours of 5 to 9 a.m. and 2:30 to 7 p.m. local time;

(B) Any freeway or expressway within 1,000 lineal feet of a freeway exit or entrance ramp gore area (the area where the ramp first enters or leaves the freeway);

(C) Any freeway ramp;

(D) Any state highway not illuminated by highway pole mounted luminaries and the vehicle remains during or into a period between sunset and sunrise; or

(E) Any state highway where the sight distance is limited to 500 feet or freeway where the sight distance is limited to 1,000 feet because of roadway horizontal or vertical curvature.

(d) Any vehicle, any part of which is on or extends within a bicycle lane or bicycle path which is immediately adjacent to a state highway.

(3) Section (2) of this rule, except for subsection (2)(a) of this rule, does not apply to vehicles for which there is an indication that the vehicle's position is temporary in nature, e.g., hazard flashers are operating, the hood of the vehicle is up, the vehicle engine remains running, or there is advance warning such as emergency flares or emergency signing in place. The indication of the vehicle's position

being temporary in nature may be overcome by the passage of time, or a change in the condition or appearance of the vehicle. Section (2) of this rule also does not apply to appropriately signed or indicated parking areas including scenic viewpoints, winter recreation parking areas, rest areas and other locations or to areas where traffic has been restricted by an appropriate authority because of a special event.

(4) Section (2) of this rule, defining a vehicle on a state highway which is a hazard or obstruction to motor vehicle traffic, is not intended to impose a legal obligation upon any appropriate authority to remove the vehicle from a state highway. Removal of a vehicle defined under this rule as constituting a hazard or obstruction to motor vehicle traffic may be accomplished by an appropriate authority consistent with law enforcement priorities and budgetary constraints on the appropriate authority.

Stat. Auth.: ORS 184.616, 184.619 & ORS 819.120(9)
Stats. Implemented: ORS 819.120
Hist.: 2HD 5-1986, f. & ef. 7-28-86; HWY 3-1987, f. & ef. 4-17-87; HWY 2-1997, f. & cert. ef. 3-24-97

Closure of Highways

734-020-0150

Temporary Closure or Conditional Closure of Highways

(1) When weather conditions or road conditions constitute a danger of highway damage or a danger to the safety of the driving public, the Chief Engineer, Region Manager, or District Manager or Assistant District Manager may prohibit the operation upon such highway or section of a highway of any or all vehicles, or any class or kind of vehicles.

(2) Such prohibition of vehicles may result in total closure or conditional closures of highways or highway sections. Conditional closures may, in the discretion of the Chief Engineer, Region Manager, District Manager or Assistant District Manager, include but not be limited to prohibition of the following classes or kinds of vehicles:

(a) Vehicles or combinations exceeding a specified gross weight;

(b) Vehicles in combinations exceeding a specified length;

(c) Vehicles and loads exceeding a specified height;

(d) Combinations of vehicles or vehicles pulling trailers; or

(e) Vehicles, or certain classes of vehicles or combinations without tire chains.

(3) Closures or conditional closures should be accomplished by physically barricading or blocking the highway, with placement of appropriate warning signs or devices, and where possible signing indicating conditional closure with types of vehicles allowed or prohibited. Department of Transportation employees may be stationed, when practical, at the barricade to offer information and assistance, and to enforce a conditional closure. Whenever possible, law enforcement agencies should be contacted and their assistance requested to aid in the enforcement of the closure or conditional closure.

(4) Road closures and conditional closures are to exist only on a temporary basis and should be removed as soon as road conditions or weather conditions permit, the hazard has been removed, and the danger to the highway or the driving public no longer exists.

Stat. Auth.: ORS 184.619 & ORS 810.030
Stats. Implemented: ORS 810.030
Hist.: 2HD 1-1983, f. & ef. 1-7-83; HWY 2-1996(Temp), f. 3-7-96, cert. ef. 5-1-96; HWY 2-1996(Temp), f. 3-7-96, cert. ef. 5-1-96

Yield Signs Attached to Transit Buses

734-020-0200

Scope

OR 734-020-0200 through 734-020-0220 establish specifications for a yield sign to be attached to the back of transit buses as directed by ORS 811.167. The yield sign shall warn a person operating a vehicle approaching the rear of the transit bus that the person must yield when the transit bus is entering traffic.

Stat. Auth.: ORS 184.616, 184.619 & ORS 811.167
Stats. Implemented: ORS 811.167
Hist.: TO 3-1998, f. & cert. ef. 4-16-98

734-020-0210

Sign Specifications

The specifications for yield signs on transit buses as required by ORS 811.167 are as follows:

(1) The sign housing shall be of adequate size to accommodate the yield symbol.

(2) A flashing light shall internally illuminate the yield sign when the bus is signaling an intention to enter a traffic lane after stopping to receive or discharge passengers.

(3) When flashing the legend shall resemble a yield sign with a downward pointing, equilateral triangle having a red border band and the word "YIELD" in red inside the border band.

(4) The message shall flash at a rate between 30 and 80 flashes per minute.

(5) The sign shall be designed to minimize the visibility of the message when not lighted.

(6) The background shall be flat black.

(7) The lettering shall be all capitals and a minimum of 1-11/16 inches tall.

(8) The equilateral triangle shall be a minimum of 6-3/4 inches tall.

(9) The sign shall have a minimum candlepower of 30 candela and provide uniform lighting throughout the lighted area.

(10) The size, shape and color shall be as provided in this rule and as shown in Exhibit 1.

[ED. NOTE: Exhibits referenced in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & ORS 811.167

Stats. Implemented: ORS 811.167

Hist.: TO 3-1998, f. & cert. ef. 4-16-98

734-020-0220

Sign Placement

The sign shall be located on the rear of the bus, to the left of center and in the lower two-thirds. Preferably the sign would be located next to or near the left turn indicator lamp.

Stat. Auth.: ORS 184.616, 184.619 & ORS 811.167

Stats. Implemented: ORS 811.167

Hist.: TO 3-1998, f. & cert. ef. 4-16-98

Standards for Installation, Operation and Use of Traffic Control Signal Operating Devices

734-020-0300

Purpose

The Department of Transportation is responsible for establishing standards for signal preemption devices and the use of traffic control signal operating devices for use upon the highways within the state. The Department is also responsible for establishing priorities among authorized operators of traffic control signal operating devices. Authorized operators include operators of emergency vehicles, buses and traffic signal maintenance vehicles. These standards consider safety, the efficiency and response times of emergency response operations, requirements for traffic signal maintenance, the efficiency of public transit operations and traffic flow. OAR 734-020-0300 through 734-020-0330 do not apply to rail vehicles.

Stat. Auth.: ORS 184.616, 184.619 & ORS 810.260

Stats. Implemented: ORS 810.260, 815.440 & ORS 815.445

Hist.: TO 4-1998, f. & cert. ef. 4-16-98

734-020-0310

Definitions

For the purposes of OAR 734-020-0300 through 734-020-0330, the following definitions apply:

(1) "Authorized operator" means an operator of an emergency vehicle, a bus or a traffic signal maintenance vehicle that is equipped with a traffic control signal operating device and who has been trained in the proper use of a traffic control signal operating device as established by OAR 734-020-0330 and is operating an approved system.

(2) "Bus" is as defined in ORS 184.675. Only buses with pneumatic tires are subject to OAR 734-020-0300 through 734-020-0330.

(3) "Bus priority system" is a traffic control signal system that includes a traffic control signal operating device and signal preemption device designated to provide buses the capability to modify the green intervals but not the display sequence of a traffic control signal. The system can be implemented for an intersection, an arterial corridor or a defined geographic area.

(4) "Emergency preemption system" is a traffic control signal system that includes a traffic control signal operating device and sig-

nal preemption device for the purpose of providing emergency vehicles the capability to modify the green intervals of a traffic control signal or change the display sequence. The system can be implemented for an intersection, an arterial corridor or a defined geographic area.

(5) "Emergency vehicle" is as defined in ORS 801.260.

(6) "Fire emergency vehicle" is an emergency vehicle operated by a public fire agency.

(7) "Signal preemption device" means traffic control signal equipment that reacts to a traffic control signal operating device and produces signal preemption and/or signal priority. A signal preemption device may respond to a single activation or may respond in recognition of priorities assigned to different users.

(8) "Traffic control signal" means a type of highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.

(9) "Traffic control signal operating device" means any active or passive device that is affixed to, or carried within, a vehicle that causes a change in the operation of a traffic control signal located at an intersection.

(10) "Traffic control signal owners" means the road authority that owns the traffic control signal.

(11) "Traffic signal maintenance vehicle" means a vehicle used to maintain traffic control signals.

Stat. Auth.: ORS 184.616, 184.619 & ORS 810.260

Stats. Implemented: ORS 810.260, 815.440 & ORS 815.445

Hist.: TO 4-1998, f. & cert. ef. 4-16-98

734-020-0320

Standards for Installation and Operation of Emergency Preemption and Bus Priority Systems

(1) The traffic control signal owner is responsible for the installation, operation and maintenance of signal preemption devices.

(2) The traffic control signal owner may install signal preemption devices to control signal operations at specific intersections, for arterial corridors or for defined geographic areas.

(3) The emergency preemption and bus priority system approval authority and process is as follows:

(a) The traffic control signal owner has approval authority for emergency preemption systems. Entities operating emergency vehicles must make a written request to the traffic signal owner for authorization to use a traffic control signal operating device. If this is an additional use, the incremental cost, if any, shall be allocated to the additional users;

(b) The traffic control signal owner has approval authority for bus priority systems. The traffic control signal owner and transit authority shall sign an agreement that covers cost, installation, operation, maintenance and use. If this is an additional use, the incremental cost, if any, shall be allocated to the additional users; and

(c) No emergency preemption system or bus priority system shall be installed until an engineering study has been approved by the traffic control signal owner. The study should consider the needs of the road authority; local transportation plans; and the impact on safety, the efficiency and response times of emergency response operations and traffic flow. If a bus priority system is being considered, the engineering study must also consider the impact on the efficiency of public transit operations.

(4) Operating requirements for signal preemption devices and traffic control signal operating devices are as follows:

(a) All signal preemption devices and traffic control signal operating devices shall be tested by the Oregon Department of Transportation and approved for use;

(b) Where multiple users of traffic control signal operating devices are authorized, the signal preemption device shall recognize and respond to the priority of each user as established by OAR 734-020-0330;

(c) Actuation of a bus priority system is available only if the system has not been preempted by an emergency vehicle call. Bus priority operation will be immediately canceled when an emergency preemption call is received;

(d) A traffic control signal operating device shall not continue to control the traffic control signal once the vehicle has entered the intersection or if a vehicle remains stationary for more than two minutes; and

(e) Neither emergency preemption or bus priority shall terminate an active pedestrian or vehicular clearance interval.

Stat. Auth.: ORS 184.616, 184.619 & ORS 810.260
 Stat. Implemented.: ORS 810.260, 815.440 & ORS 815.445
 Hist.: TO 4-1998, f. & cert. ef. 4-16-98

734-020-0330

Standards for Use of Traffic Control Signal Operating Devices

(1) Only authorized operators may use a traffic control signal operating device:

(a) Emergency vehicle operators may use an authorized emergency preemption system;

(b) Bus operators may use a bus priority system. Use must be according to the signed agreement described in OAR 734-020-0320; and

(c) Traffic signal maintenance vehicle operators may use traffic control signal operating devices to test and maintain emergency preemption systems or bus priority systems.

(2) Priority for the actuation of emergency preemption and bus priority systems is as follows:

(a) First priority will be given to emergency vehicles. Priorities among emergency vehicles authorized to use an emergency preemption system will be assigned in the following order, where technically feasible:

(A) Authorized fire emergency vehicles. This priority is assigned in consideration of the weight, operating speed and braking distance required; and

(B) All other authorized emergency vehicles.

(b) Secondary priority will be given to buses authorized to use a bus priority system.

Stat. Auth.: ORS 184.616, 184.619 & ORS 810.260

Stats. Implemented: ORS 810.260, 815.440 & ORS 815.445

Hist.: TO 4-1998, f. & cert. ef. 4-16-98

Traffic Signal Approval Process

734-020-0400

Purpose

The purpose of OAR 734-020-0400 through 734-020-0500 is to establish the process for consideration and approval for installation of traffic signals. Additional details for approval and installation of traffic signals can be found in the 1999 Oregon Highway Plan and the Manual on Uniform Traffic Control Devices, adopted under OAR 734-020-0005.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0410

Authority

OAR 734-020-0400 through 734-020-0500 are adopted pursuant to ORS 184.616, 184.619 and 810.210. The Oregon Transportation Commission has authority to place, maintain and operate traffic control devices on state highways. By this rule, the Oregon Transportation Commission delegates to the State Traffic Engineer the authority to approve the installation of traffic control devices on state highways.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0420

Definitions

For the purposes of OAR 734-020-0400 through 734-020-0500, the following definitions apply:

(1) "Approach" means all lanes of traffic moving toward an intersection or a mid-block location from one direction.

(2) "MUTCD" means the Manual on Uniform Traffic Control Devices as adopted by OAR 734-020-0005.

(3) "Private road" means a roadway or driveway connection serving one or more properties that does not provide connectivity to the local road system. Any roadway that prohibits public use by rule, code, or physical obstruction, such as a gate, shall be considered a private road. Prohibition of large vehicles or weight restrictions for vehicles greater than 30,000 pounds gross vehicle weight (GVW) are not considered restrictions for public use.

(4) "Public road" means a public roadway connection serving multiple properties, which is owned and operated by a public entity, and provides connectivity to the local road system.

(5) "Roadway improvement project" means a major construction, reconstruction or realignment of a section of state highway which during construction will significantly disrupt the normal flow of traffic on, or entering the facility from intersecting public roads.

(6) "State Highway System" means the group of roads and highways designated as such by law or by the Oregon Transportation Commission pursuant to ORS 366.220 and includes both primary and secondary state highways.

(7) "Traffic signal" has the same meaning as "traffic control signal" as defined in OAR 734-020-0310.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0430

Traffic Signal Approval List

(1) No traffic signal shall be designed for, or constructed on, the State Highway System, regardless of the funding source, without the prior approval of the State Traffic Engineer.

(2) Documents or plans, including land use plans, corridor plans, or construction documents which have been approved by ODOT and which identify new traffic signals must still receive approval by the State Traffic Engineer prior to traffic signal design or construction.

(3) The ODOT Traffic Management Section shall maintain a list of locations on State Highways for which the State Traffic Engineer's approval has been obtained for the installation and operation of a traffic signal. The inclusion of a location on the Traffic Signal Approval List does not assure the eventual design, installation, or operation of a traffic signal, but does eliminate the need for additional investigation should construction of the signal be advanced. All of the following apply to listed intersections:

(a) Intersections shall meet MUTCD traffic signal warrants (unless subject to the conditions of OAR 734-020-0490) which shall be indicated for each listed intersection;

(b) Each ODOT Region shall determine the order in which traffic signals will be installed; and

(c) If not advanced to construction within five years after placement on the Traffic Signal Approval List, ODOT Region staff shall, prior to installation, review an intersection to determine if the traffic signal warrants and other criteria are still satisfied.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0440

Application Procedure for Installation of Traffic Signals on State Highways at Public Roads

(1) An applicant requesting the approval for installation of a traffic signal on a State Highway at its intersection with a public road shall submit to the State Traffic Engineer the following:

(a) A letter of concurrence signed by the Region Traffic Engineer which documents discussions with, and support of, affected local agencies; and

(b) A traffic engineering investigation with considerations as established in OAR 734-020-0460. The traffic engineering investigation shall:

(A) Clearly indicate the need for a traffic signal; and

(B) Provide documentation of traffic volumes and appropriate signal warrant satisfaction.

(2) The documentation submitted shall clearly indicate compliance with the requirements of OAR 734-020-0470.

(3) A traffic signal progression analysis as established in OAR 734-020-0480 is required if the proposed location is within 1/2 mile of an existing or possible future traffic signal.

(4) Upon approval of the request:

(a) The named intersection shall be added to the Traffic Signal Approval List; and

(b) The applicant and appropriate local road authorities shall receive a letter of approval signed by the State Traffic Engineer.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0450**Application Procedure for Installation of Traffic Signals on State Highways at Private Roads**

(1) An applicant requesting the approval for installation of a traffic signal on a State Highway at its intersection with a private road shall submit to the ODOT District Manager the following:

(a) An application form as required by the OAR chapter 734 division covering access control for state highways; and

(b) A Transportation Impact Study (TIS), as described below, that complies with the special permit provisions of the ODOT permit to construct an approach. The TIS shall:

(A) Clearly indicate the need for a traffic signal;

(B) Assess the ability of the existing, planned, and proposed public roads to accommodate the traffic at another location;

(C) Describe in detail how a specific development will affect study area transportation systems; and

(D) Provide documentation on traffic volumes and appropriate signal warrant satisfaction.

(2) The documentation submitted shall clearly indicate compliance with the following conditions:

(a) Design geometry of the private road is consistent with that of public road intersections including curbs, appropriate land widths, pavement markings and vertical alignment;

(b) An adequate approach throat length is provided on the private road to assure that the movement of vehicles entering the site is not impeded by on-site conditions; and

(c) The requirements of OAR 734-020-0460 and 734-020-0470 have been satisfied.

(3) A traffic signal progression analysis as established in OAR 734-020-0480 is required if the proposed location is within 1/2 mile of an existing or possible future traffic signal.

(4) Upon approval of the request:

(a) The named intersection shall be added to the Traffic Signal Approval List; and

(b) The applicant shall receive a letter of approval signed by the State Traffic Engineer.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0460**Consideration for Approval of a Traffic Signal Installation**

The following conditions shall be considered by ODOT for approval of a proposed traffic signal installation:

(1) A traffic signal shall not be installed unless one or more of the eleven warrants identified in the MUTCD, Part IV, Chapter C, Sections 3 through 10 are met or will be met consistent with the requirements of OAR 734-020-0490. Only MUTCD warrants 1 and 2 may be used to project a future need for a traffic signal. The satisfaction of a warrant or warrants, however, is not in itself justification for a traffic signal.

(2) Information to determine the need for a traffic signal shall be obtained by means of comprehensive investigation of traffic conditions and physical characteristics of the proposed traffic signal location and compared with the requirements set forth in the traffic signal warrants and appropriate highway design standards.

(3) The traffic engineering investigation shall indicate the installation of a traffic signal would improve the overall safety and operation of the intersection.

(4) Other roadway factors to be considered include, but are not limited to speed, type of highway, grades, sight distance, existing level of service, conflicting accesses, alternate accesses, and effect on existing or future traffic signal systems.

(5) The placement of traffic signals shall conform to the requirements of the 1999 Oregon Highway Plan.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0470**Traffic Signal Spacing Requirement**

(1) The desirable spacing of signalized intersections on statewide and regional highways is 1/2 mile. The State Traffic Engineer may approve the installation of a traffic signal at locations where 1/2 mile spacing is inappropriate or infeasible due to:

(a) Topography;

(b) Existing or proposed road layout;

(c) Requirements of a traffic signal system as determined by OAR 734-020-0480;

(d) Identified traffic crash pattern;

(e) Unique physical constraints;

(f) Existing or proposed land use patterns; or

(g) Requirements to achieve specific objectives for highway segment designations as recited in the 1999 Oregon Highway Plan.

(2) Signal spacing concerns may be remedied in any of the following ways:

(a) A proposed private road that may otherwise be considered for the installation of a traffic signal as provided in OAR 734-020-0450 may be replaced by an on-site route that directs traffic to or from a nearby public road;

(b) A private road that is being considered for traffic signal installation as provided in OAR 734-020-0450 may be required to connect to the existing or planned local road system to allow use by surrounding properties;

(c) An existing or proposed intersection may be relocated; or

(d) A shared private road may be required to serve the needs of multiple properties.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0480**Traffic Signal Progression Analysis**

(1) A traffic signal progression analysis for all new or revised traffic signal systems on state highways shall be performed using methods, models, computer software, data sources, roadway segment length, and assumptions approved by the State Traffic Engineer or designated representative. The roadway segment analyzed, to the extent possible, shall include all traffic signals in the existing or future traffic signal system. The progression analysis shall:

(a) Demonstrate acceptable existing and future traffic signal system operation that may include the morning peak, evening peak, midday period, and other appropriate time period during any day of the week, for cycle lengths and travel speeds approved by the State Traffic Engineer or designated representative;

(b) Provide for a progressed traffic band speed no more than 5 mph below the existing posted speed for both directions of travel during the off-peak periods, no more than 10 mph below the existing posted speed during peak periods. Approval by the State Traffic Engineer or designated representative shall be required where speeds deviate more than the above;

(c) Demonstrate sufficient vehicle storage is available at all locations within the traffic signal system without encroaching on the functional boundaries of adjacent lanes and signalized intersections. The functional boundary of an intersection shall be determined using procedures specified by the ODOT Access Management Unit;

(d) Provide a common cycle length with adequate pedestrian crossing times at all signalized intersections; and

(e) Provide a progression bandwidth as large as that required, or as presently exists, for through traffic on the state highway at the most critical intersection within the roadway segment. The most critical intersection is the intersection carrying the highest through volume per lane on the state highway.

(2) The traffic signal progression analysis shall be supplemented by a traffic engineering report that also considers highway capacity and safety of the roadway segment under consideration. Traffic volumes, intersection geometry and lane balance considered at all locations shall be appropriate for present and future conditions. Present and future conditions are usually considered to include the year of completion and 15 to 20 years in the future.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0490**Conditions of Approval**

The following conditions apply when installation of a traffic signal has been approved:

(1) A traffic signal warrant shall be met within three years after construction when a traffic signal is constructed as part of a roadway improvement project.

(2) A traffic signal warrant shall be met within one month after the traffic signal is put into operation when a traffic signal is being constructed to accommodate additional traffic from a public or private development. If it is projected that a warrant will be met at a later time, operation of the traffic signal should be correspondingly delayed.

(3) All approaches to a traffic signal controlled intersection must be signalized, unless a traffic engineering investigation shows that signalizing a minor public or private road is not justified.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

734-020-0500

Removal of Traffic Signals

The Department may remove an existing traffic signal if MUTCD traffic volume warrants are no longer met or a proposed change in geometry or traffic flow pattern will eliminate the existing warrant. The State Traffic Engineer shall approve all such removals on State Highways and provide public notice when:

(1) Supported by a comprehensive investigation of traffic conditions;

(2) The needs of local agencies affected by the removal are addressed; and

(3) Public opinion is considered.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 810.200

Stats. Implemented: ORS 810.200 & ORS 810.210

Hist.: TO 5-1999, f. & cert. ef. 12-17-99

DIVISION 29

ADOPT-A-HIGHWAY PROGRAM

734-029-0005

Purpose

The purpose of this program is to provide citizens of Oregon an opportunity to control litter and improve the appearance of the State Highway System in accordance with Oregon Laws 1991, Chapter 486.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.158

Hist.: HWY 6-1992, f. & cert. ef. 3-26-92

734-029-0010

Scope

Any person, as defined by ORS 174.100(5) and these rules, may adopt a section of highway on the State Highway System for the purpose of picking up and removing litter and trash from the right-of-way. Work activities may also include maintenance of landscaping improvements.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.158

Hist.: HWY 6-1992, f. & cert. ef. 3-26-92

734-029-0020

Definitions

As used in these rules:

(1) A "Person" is defined as including individuals, corporations, associations, firms, partnerships, and joint stock companies.

(2) An "Applicant" is defined as the individual, group or person adopting the section of highway.

(3) A "Spokesperson" is defined as the individual chosen by an applicant group to represent the group.

(4) A "Participant" is defined as an individual or member of an applicant group actually performing work on the highway under this program.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.158

Hist.: HWY 6-1992, f. & cert. ef. 3-26-92

734-029-0030

General Requirements

(1) The applicant's spokesperson must apply in writing to the District Manager of the Department of Transportation (department)

for the district in which the section of highway being adopted is located.

(2) An "Adopt-A-Highway" miscellaneous permit (reference OAR chapter 734, division 55) will be executed by the applicant's spokesperson and the department. The permit will list the specific requirements and obligations of both the applicant and/or its participants and the department.

(3) The section of highway adopted shall be at least two miles in length for litter pickup work. (If there are unique or unusual situations or features having to do with litter pickup on a specific highway section or for maintenance of landscaping improvements, the District Manager may modify this minimum.)

(4) The term of the permit will be for a period of one, two, or three years.

(5) If more than one applicant requests the same section of highway, the District Manager may make the selection by earliest date of application or by a drawing.

(6) Assignment of a specific section of highway shall be at the discretion of the District Manager.

(7) The District Manager may consider factors such as width of right-of-way, geometrics, congestion, and reduced sight distance in determining which highways or highway sections will be eligible for this program.

(8) Subcontracting or assigning the adopted section by the applicant is prohibited and will result in cancellation of the permit.

(9) This program may, at any time and for any reason, be canceled, modified in scope, or altered in any other manner at the sole discretion of the Chief Engineer. Such alteration of the program shall apply to all permits issued prior to such date unless otherwise specified.

(10) The District Manager may cancel a permit for any reason including, but not limited to safety considerations concerning highway operations, failure of the applicant to perform and failure of the applicant or its participants to comply with provisions of the permit. This cancellation will be issued in writing.

(11) The applicant may cancel the permit with 30 days written notice to the department.

(12) An applicant has the option of renewing the permit for subsequent terms, subject to the approval of the District Manager.

(13) The department shall not issue a permit under this program to any applicant whose objectives and values are determined to be inconsistent with the public interest and the department's charge and responsibilities under Oregon law. To make this determination, the District Manager will rely on:

(a) Oregon Department of Transportation published mission and values;

(b) All of the information provided in the application and any other information considered to be common knowledge of the general public in the District or in the geographic area of the highway section to be adopted;

(c) Information which may be requested of the applicant by the District Manager. This information may include bylaws, articles of incorporation, or literature of the applicant. Failure to provide such information upon request may be grounds for denial of a permit.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.158

Hist.: HWY 6-1992, f. & cert. ef. 3-26-92

734-029-0040

Specific Requirements

(1) Applicant Organization and Participant Responsibilities:

(a) Each participant will be required to execute a liability release form reflecting the participant's awareness and acknowledgement of the potentially hazardous nature of the work involved;

(b) Each participant will be required to comply with and abide by all laws, rules, and regulations relating to safety and use of the highway, and such other terms and conditions as may be required by the District Manager for special conditions on a particular adopted highway section. Individual participants may be excluded from participation or the permit canceled, at the discretion of the District Manager for violation of this section;

(c) Adult supervision is required. Participation by or presence at the work site of individuals under 16 years of age is not permitted;

(d) Each applicant is required to conduct at least two safety meetings per year to inform each participant concerning personal, group, and motorist safety. Each participant is required to attend a safety meeting before participating in the actual work;

(e) Each applicant is required to pick up litter a minimum of four times a year. This frequency may be modified (increased or decreased) by the District Manager dependent on condition and appearance of the highway section;

(f) If maintenance of landscaping improvements is a planned work activity, the scope of work and specific requirements and limitations will be agreed to by the applicant's spokesperson and the District Manager, and identified in the permit;

(g) Supplies, materials, and work area signs furnished by the Department of Transportation (department) will be obtained from and returned to the department during regular business hours. An applicant may furnish its own supplies for its exclusive use;

(h) Each applicant will be responsible for appointing or selecting a spokesperson. The spokesperson's responsibilities include assuring compliance by participants with safety procedures, proper participant clothing and footwear, proper parking of vehicle(s) along the highway, providing a first-aid kit and adequate drinking water, and arranging transportation of the participants to and from the work site;

(i) Each group participant will be responsible for placing litter in trashbags furnished by the department.

(2) Department Responsibilities:

(a) The department will consult with an applicant to determine the specific section of highway to be adopted;

(b) The department will furnish work area signs, trashbags, reflective vests, and safety awareness information for applicant safety meetings;

(c) The department will furnish and erect two acknowledgement signs, one at each end of the adopted highway section with the group's name or acronym displayed. If the department determines that the sign(s) would create an unsafe condition for persons using the highway, it may choose not to erect the sign(s). The signs will be removed when the permit is canceled or terminated;

(d) The department will be responsible for removal of the filled bags from the highway and for removing litter from the adopted section under *unusual* circumstances, i.e., to remove large, heavy, or hazardous items. The department will remove landscaping debris if it is bagged and/or piled at a location as directed by the District Manager.

Stat. Auth.: ORS 366
Stats. Implemented: ORS 366.158
Hist.: HWY 6-1992, f. & cert. ef. 3-26-92

DIVISION 30

REST AREAS

734-030-0005

Definitions

For the purpose of these regulations OAR 734-030-0005 through 734-030-0025 the term "rest area" includes safety rest areas, scenic overlooks and similar roadside areas which are under the jurisdiction of the Department of Transportation.

Stat. Auth.: ORS 184.616, 184.619, 366.205, 374, 377, 390 & ORS 815
Stats. Implemented: ORS 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; 2HD 5-1984, f. & ef. 4-18-84; HWY 2-1993, f. & cert. ef. 4-15-93

734-030-0010

Prohibited Activities

The following activities are prohibited in a rest area:

(1) Lighting a fire except at locations where fireplaces are provided.

(2) Picking up or removing plant life or forest products.

(3) Hunting birds or animals or discharging firearms.

(4) Mutilating, defacing, damaging or removing any structure or facility.

(5) Digging up, defacing, or removing any dirt, stone, rock, or other natural substance.

(6) Operating a concession or selling merchandise, except for a permitted "free coffee" program or pursuant to an agreement

between the Department of Transportation and the Oregon Commission for the Blind.

(7) Operating a motor vehicle in any area not constructed or designed for motor vehicles. All motor vehicles shall be parked in designated areas only.

(8) Allowing a pet to run loose. Allowing a pet on a leash except a seeing-eye dog in any area except designated pet areas. Allowing any pet, except a seeing-eye dog, in any building. Allowing livestock to run at large.

(9) Depositing refuse of any kind except in designated containers.

(10) Dumping, spilling or allowing to leak any sewage or waste water from the vehicle.

(11) Using restroom facilities to bathe, wash clothing, dishes or other materials.

(12) Participating in a public demonstration, disturbance or riotous behavior which interferes with the reasonable use of the rest area by other rest area visitors.

(13) Camping overnight or remaining in a rest area for more than 12 hours within any 24-hour period, or setting up a tent in a rest area.

(14) Creating noise by any means which interferes with the reasonable use of the rest area by other rest area visitors.

Stat. Auth.: ORS 184, 366, 374, 377, 390 & ORS 815
Stats. Implemented: ORS 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; 2HD 5-1984, f. & ef. 4-18-84; HWY 8-1990(Temp), f. & cert. ef. 4-20-90; HWY 14-1990, f. & cert. ef. 12-5-90

734-030-0015

Compliance

The rest area attendant in charge of any rest area is authorized to require compliance with these regulations and is authorized to order any person violating these regulations to leave the rest area.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 390
Stats. Implemented: ORS 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; HWY 2-1993, f. & cert. ef. 4-15-93

734-030-0020

Notice

OAR 734-030-0005 through 734-030-0015 shall be posted in each rest area.

Stat. Auth.: ORS 366 & ORS 390
Stats. Implemented: ORS 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76

734-030-0025

"Free Coffee" Program

"Free coffee" programs sponsored by nonprofit organizations in rest areas are found in certain instances to be in the interest of public safety, and are permissible under federal regulations and state law and will be permitted subject to the following conditions:

(1)(a) Non profit organizations may make written requests for permission to sponsor the activity at specific rest areas directed to the District Manager (DM) for the district in which the rest area is located not more than 60 days prior to the date(s) requested;

(b) The DM will grant permission for the activity by way of a standard permit issued to the selected nonprofit organization. The selection will be made not less than 30 days in advance of the date(s) requested from all written requests received, and will be based on a random drawing conducted by the DM if multiple requests for the same date(s) and location are received;

(c) Permits will be issued in 24-hour increments with a maximum of 72 hours. No more than three permits will be issued to one organization in a calendar month;

(d) Only one organization will be granted a permit for a rest area for any particular date or time;

(e) The DM may decline to issue any permits for particular rest areas or for any particular date or time; and

(f) A copy of the permit must be on-site during operation of the "free coffee" service.

(2) The activity will be located in a designated area of the rest area. The area will be designated by the DM or the rest area atten-

dant. Area is to be kept neat and free of litter, cups, etc., associated with the service.

(3) The distribution of “free coffee” may include any non-alcoholic beverage and cookies but may not include other food items. Cookies offered must come from a licensed facility. The nonprofit organization shall comply with all state and local health department rules and regulations. For the purposes of this rule, “cookie” will include brownies but not cake, bagels, donuts, coffee cake, etc., which are pastries.

(4) Carbonated beverages shall not be distributed under the “free coffee” program in rest areas where vending machines are available.

(5) Donations may be received but shall not be solicited. One opaque container with the words “donations” or “contribution” in one-inch letters will be allowed.

(6) Signs or posters identifying the activity and the sponsoring organization by name only are permitted, however, they are limited to a maximum area of ten square feet each and to two in number, and may only be placed on vehicles used in connection with the activity or located in the area designated for the activity. No signs are to be placed outside the rest area confines by the organization.

(7) The activity is not permitted to use, to be within or to obstruct access to any rest area building or other structure.

(8) Permits are revocable for non-compliance with any state statute or any rest areas rules.

Stat. Auth.: ORS 184.616 & Ch. 738, OL 1993

Stats. Implemented: ORS 366.490

Hist.: 2HD 5-1984, f. & ef. 4-18-84; 2HD 8-1986, f. & ef. 11-24-86; HWY 2-1993, f. & cert. ef. 4-15-93; HWY 2-1994, f. & cert. ef. 2-28-94

DIVISION 32

OREGON SCENIC BYWAYS PROGRAM

734-032-0000

Purpose of and Need for the Scenic Byway Program

Administrative rules OAR 734-032-0000 through OAR 734-032-0070 establish the Scenic Byway Program as authorized by ORS 184.617 and 184.619. The program consists of a multistep process starting with an idea (citizen, special interest group, local, state or federal agency) to designate transportation corridor as an Oregon Scenic Byway and progressively move that idea through a series of reviews culminating, if warranted, in a designation of an Oregon Scenic Byway by the Oregon Transportation Commission and the Oregon Tourism Commission. The program is intended to recognize scenic byways across jurisdictional boundaries, to orient and focus on the tourist or motorist and to show off the best in the way of scenic byways. The stimulus for this program has come from the Intermodal Surface Transportation Efficiency Act of 1991.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0010

Goals and Objectives of the Scenic Byway Program

(1) The goals of the Scenic Byway Program are to:

(a) Create a comprehensive statewide multi-agency program to identify and manage Oregon’s most outstanding scenic transportation corridors;

(b) Preserve and/or enhance Oregon’s most outstanding scenic transportation corridors; and

(c) Provide meaningful tourism opportunities for the traveling public.

(2) The following objectives are intended to accomplish these goals:

(a) Develop a process and criteria for evaluating and designating scenic transportation corridors;

(b) Develop guidelines for producing management strategies to preserve and/or enhance designated scenic transportation corridors; and

(c) Develop a guide and/or may of scenic transportation corridors for public information.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991
Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0020

Terminology

The following terminology shall be used when applying the criteria in this division:

(1) Agriculture/Forestry — Crops, wineries, vineyards, ranches, fisheries, old-growth and reforested lands.

(2) Color — Overall color(s) of the basic components of the landscape (e.g., soil, rock, vegetation, etc.) as they appear during the seasons or periods of high use. Key factors are variety, contrast and harmony.

(3) Driveability — Driving safety, ease and pleasure as related to road standards (e.g., lane and shoulder width, traffic character, etc.)

(4) Landform — Topography becomes more interesting as it gets steeper or more massive, or more severely sculptured. Outstanding landforms may be monumental or exceedingly artistic and subtle.

(5) Modifications — Modifications in the landform, water, vegetation or addition of structures that detract from or complement the scenic quality.

(6) Natural — This includes natural features such as geologic formations, wildlife sites, waterfalls, lake basins, old-growth stands, mountain meadows, etc.

(7) Paved — Hard surfaces such as concrete or bituminous.

(8) Uniqueness/Scarcity — The relative scarcity or abundance of a particular unique scenic resource or combination of features within the geographic region.

(9) Vegetation — Forest, prairies, orchards, active farm cropland and tree farms. Consider variety of patterns, form and textures created by plant life. Consider smaller scale vegetational features which add striking and intriguing detail elements to the landscape.

(10) Water — Ocean, rivers, lakes, waterfalls, rapids, marshes, canals and harbors. That ingredient which adds movement or serenity to a scene. The degree to which water dominates the scene.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0030

Categories of Routes

There are two categories of routes in the Scenic Byways system. Scenic Byways include the most scenic routes with road standards that would accommodate most travelers. These routes encompass scenic, historic, recreational and cultural values of not only the roadway right-of-way, but also the adjacent visual resources. Tour Routes include all the other purely scenic routes with limited driveability as well as routes with special features. Further definition of these routes are:

(1) Scenic Byways encompass national or statewide known scenic values of the roadway and adjacent visual resources. In general, scenic routes are paved, passable by passenger car and meet certain road and safety standards. This classification contains examples of truly spectacular routes with national or statewide recognition and the best scenic drives in Oregon. The Scenic Byways shall include the many varieties of the Oregon landscape and shall be distributed throughout the state. The number of routes shall be limited so the state is not saturated with scenic drives. The pattern of routes shall not be confusing to the public. Crisscrossing or overlap of designated routes shall be avoided.

(2) Tour Routes encompass regionally or locally known scenic, cultural or historic values which also have features or points of interest that tend to draw people out of their cars. These could include wine tours, covered bridge tours or resource management tours. Tour routes may also be more primitive routes requiring high-clearance vehicles, with scenery ranging from national to local. Tour Routes may be paved, but some are not, and a few require four-wheel drive vehicles, while others are driveable by normal passenger car. The routes shall be safe for the prescribed season and required type of vehicle.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0040**Oregon Scenic Byway Designation Process — Initial Screening of Scenic Byway Proposal**

(1) To be considered as a scenic byway the proponent must submit the following:

(a) Written narrative statement of the route identifying items of significance or interest in relation to the established criteria;

(b) Documentation of conceptual support by jurisdictional agencies in the corridor;

(c) Map of route, showing beginning and ending points, length and width of corridor; and

(d) Definition of the location of points of interest or significance.

(2) The Oregon Scenic Byway Committee shall review the proposal against the criteria and determine whether it shall proceed through the designation process. The committee shall also review the proposed route against currently designated routes and other pending proposals to assure that the pattern of designated routes shall not be confusing and are not becoming saturated. If the committee recommends not to proceed it shall provide comments to the applicant on weaknesses of the proposal and possible improvements where applicable.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0050**Oregon Scenic Byway Designation Process — Formal Proposal**

(1) If the proposal is recommended to proceed, the proponent must make a formal presentation to the committee presenting the following information in addition to providing additional detail of the requirements in OAR 734-032-0040(1):

(a) Detail the management strategy which shall be employed for the route. This should include the following:

(A) How the Scenic or Tour Route Criteria values shall be protected;

(B) How the Scenic or Tour Route Criteria values shall be interpreted for the public;

(C) How the road and parking shall be maintained to enhance value and for public safety; and

(D) How values shall be enhanced.

(b) Discussion of the funding commitment including a letter stating the amount committed and when available;

(c) A statement demonstrating that designation of the route shall be consistent with applicable land use plans including a letter from the local governments having jurisdiction over the route;

(d) A letter from the road agencies having jurisdiction over the route showing that the proposed designation has been coordinated with these agencies;

(e) Demonstrate how new or relocated billboards shall be prohibited in the scenic byway corridor; and

(f) A marketing plan which is coordinated with local/regional convention and visitors bureau and/or chambers of commerce.

(2) Based on the information presented the committee may determine that the route does not qualify as a Scenic Byway or Tour Route category.

(3) The committee shall review driveability of a route to determine if it is satisfactory for the Scenic Byway Category. If the route does not meet the driveability requirement it may be considered in the Tour Route category.

(4) Representatives of the Oregon Scenic Byway Committee shall conduct a field review of the proposed route and rate the route against the Scenic and Tour Route Criteria. These criteria are in **Tables 1 and 2**, Scenic Byway Criteria and Tour Route Criteria, respectively.

(5) In order to be recommended for designation as a Scenic Byway, the route must achieve a threshold score in the evaluation against the Scenic Byway Criteria.

(6) In order to be recommended for designation as a Tour Route, the route must receive a minimum score in the evaluation against the Scenic Byway Criteria. The route must also receive enough additional points in the evaluation against the Tour Route Criteria to reach the threshold score.

(7) Prior to accepting applications for scenic byways or tour routes, the Scenic Byway Committee shall assign points to the Scenic Byway and Tour Route Criteria in **Tables 1 and 2**, and shall establish

threshold scores and minimum scores for Scenic Byways and Tour Route designation. This information shall be made available to all proponents.

(8) If the full committee agrees to recommend a route to be designated either as a Scenic Byway or Tour Route, the recommendations of the committee shall be forwarded to the Transportation Commission and the Oregon Tourism Commission for final action. Both the commission and council must adopt the recommendation for the route by at least a two-thirds majority for the route to receive the designation.

(9) If the proposed route is not recommended for designation by the committee, comments shall be provided to the proponent. This information shall state the reasons why this route was not designated and possible improvements along the route that would help it meet the required standards if the proponent opts to reapply. The route may be resubmitted for consideration of designation 90 days after comments are provided to the proponent.

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

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0060**Monitoring Designated Oregon Scenic Byways and Tour Routes**

The Oregon Scenic Byway Committee shall review field inventories against current conditions at least once every five years. The committee may recommend the removal of routes that no longer meet the criteria due to changed conditions at the completion of the five year review or at any time there is a significant change in the conditions of the route.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

734-032-0070**Scenic Byway Committee**

The Oregon Scenic Byway Committee shall consist of a representative from each of the entities listed below with the Oregon Department of Transportation representative chairing the committee:

(1) Oregon Department of Transportation;

(2) Oregon Economic and Community Development Department;

(3) Oregon Parks and Recreation Department;

(4) U.S. Forest Service;

(5) Bureau of Land Management;

(6) Association of Oregon Counties;

(7) Oregon Association of Convention and Visitors Bureaus; and

(8) League of Oregon Cities.

Stat. Auth.: ORS 184.617 & ORS 184.619

Stats. Implemented: Intermodal Surface Transportation Efficiency Act of 1991

Hist.: HWY 6-1994, f. & ef. 12-29-94

DIVISION 35**RIGHT OF WAY AND REAL PROPERTY****734-035-0005****Property Grants to Cities and Counties for Streets and Roads**

(1) General Policy: The grant of property or property rights acquired by highway funds is subject to statutory and constitutional restrictions. This administrative rule is enacted in order to assure that those restrictions are satisfied when property or property rights are granted to cities or counties for street or road purposes by ensuring that such transfer is in the public interest and that the highway funds are being adequately conserved.

(2) The Department of Transportation receives requests from cities and counties for grants of property owned by the department for construction of streets and roads which are not part of the state highway system. Subject to the following conditions, the department may sell or transfer property not on operating right of way if the property is declared surplus to the needs of the department and may grant easements on operating right of way for such street and road purposes:

(a) Sale or transfer of property not on operating right of way declared surplus:

(A) If the proposed street or road is determined not to benefit the state highway system the property shall be appraised and that value must be paid before property rights are transferred; and

(B) If the proposed street or road is determined to be a distinct and direct benefit to the state highway system the property shall be appraised, the value of the proposed street or road to the state highway system shall be determined and if the values are approximately equal the grant shall be given at no cost to the city or county, otherwise the difference between the appraised value and value to the state highway system must be paid before the property rights are transferred.

(b) Grant of easement on operating right of way:

(A) The property will be reviewed for the possibility of revenue production, and if there is such a possibility, the property will be appraised by the right of way section and an appraised value given:

(i) If the proposed street or road is determined to directly and distinctly benefit the state highway system the easement may be granted at no cost to the city or county;

(ii) If there is determined to be no possibility of revenue production the easement may be granted at no cost to the city or county; and

(iii) If there is determined to be a possibility of revenue production and the proposed street or road is determined not to be a benefit to the state highway system the appraised value must be paid by the city or county prior to a grant of easement.

(B) A grant of easement on operating right of way are also subject:

(i) Review and approval by Federal Highway Administration;

(ii) Review and approval by the department of the street or road design and its effect on the safety and operation of the highway; and

(iii) Compliance with section (3) of this rule, including payment of administrative costs.

(3) A grant of easement, and sale or transfer of department property is also subject to the following:

(a) Payment by the city or county of administrative costs, incurred by the department in processing and reviewing the request, including the proposed design, and in appraising value and determining revenue production possibilities. The administrative costs will be based on actual documented costs incurred plus a ten percent charge for general administration;

(b) Prior to the transfer of any property rights a fully approved and executed written agreement must be entered into between the department and the city or county outlining details of design, construction and cost responsibility; and

(c) All grants or transfers constitute only a transfer of a property right, and do not excuse the city or county from complying with any other requirements or obtaining approvals necessary under existing law for street or road construction.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 366.395

Hist.: 2HD 8-1984, f. & ef. 5-23-84

Procedures for Removing Personal Property from Illegal Campsites on State's Rights-of-Way

734-035-0010

Purpose

The purpose of this rule is to implement the procedures of ORS 377.650 in the case of illegal campsites on state rights-of-way. Personal property, as defined in this rule, which is found at the illegal campsite at the time of a cleanup will be stored for 30 days.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.650

Hist.: HWY 12-1990(Temp), f. & cert. ef. 7-20-90; HWY 16-1990, f. & cert. ef. 12-28-90

734-035-0020

Definition of Personal Property

(1) Personal property includes items which are reasonably recognizable as belonging to individual persons and which have apparent utility. Items which have no apparent utility or are in an unsanitary condition are considered junk and will be discarded.

(2) Weapons, drug paraphernalia, and items which reasonably appear to be either stolen or evidence of a crime will be turned over to the appropriate law enforcement agency.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.650

Hist.: HWY 12-1990(Temp), f. & cert. ef. 7-20-90; HWY 16-1990, f. & cert. ef. 12-28-90

734-035-0030

Removal, Storage and Retrieval

(1) Personal property (as defined in OAR 734-035-0020) will be separated during cleanups from trash/debris/junk (which will be immediately discarded) and items to be turned over to law enforcement officials and stored. The personal property shall be stored for no less than 30 days. During that period it will be reasonably available to persons claiming ownership of the personal property.

(2) Each district will arrange in advance for a location to store personal property. The storage facility should be reasonably secure. The location should be reasonably accessible to the cleanup area and preferably served by public transportation. If a Department of Transportation facility is used, the address of the facility will not be publicized. Instead, a telephone number to arrange an appointment to pick up claimed personal property will be provided. The telephone number should reach an office which is staffed during normal business hours (8 a.m. to 5 p.m. weekdays). A person claiming property must be able to schedule an appointment at a convenient time (also during business hours).

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.650

Hist.: HWY 12-1990(Temp), f. & cert. ef. 7-20-90; HWY 16-1990, f. & cert. ef. 12-28-90

734-035-0040

Scheduling and Notice; Costs

(1) Cleanups will be scheduled on an as-needed basis. In locations where campsites are regularly established, permanent signs can be posted announcing that personal property will be removed and stored. Once the permanent sign is erected, no further notice is required. In areas where no permanent sign is posted, notice will be posted and distributed in the area of the cleanup at least ten days before the cleanup, notifying all persons of the date of the cleanup. At the time of the cleanup, written notice will be posted and distributed announcing the telephone number where information on picking up the stored property can be obtained. Cleanups at sites where permanent signs are posted cannot occur any more frequently than once every ten days.

(2) Written notices, including permanent signs, will be in both English and Spanish.

(3) A \$2 charge shall be made for the cost of removal and storage of the personal property. No charge shall be made for the cost of the cleanup generally.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.650

Hist.: HWY 12-1990(Temp), f. & cert. ef. 7-20-90; HWY 16-1990, f. & cert. ef. 12-28-90

Disposition of Surplus Property

734-035-0050

General Policy

It is the general policy of the Department of Transportation to efficiently and economically dispose of real property that is determined by the agency to be surplus.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 270.100

Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0060

Determination that Property is Surplus

The following criteria may be used to determine real property is surplus: The property is no longer needed by the agency for public purposes.

Stat. Auth.: ORS 184, 273 & ORS 366

Stats. Implemented: ORS 270.110

Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0070

Notice to Department of Administrative Services

Upon declaring property to be surplus to its needs, the Department of Transportation shall notify the Department of Administrative Services of the intent to sell the property.

Stat. Auth.: ORS 184 & ORS 273
 Stats. Implemented: ORS 270.100
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0080

Appraisal of Surplus Property

(1) Before offering for sale any real property or equitable interest therein owned by the Department of Transportation, the Department shall cause the property to be appraised by one or more competent appraisers. All appraisals so obtained shall be reviewed in compliance with the Department's **Right of Way Manual** to insure accuracy and adequacy of the value reported for the real property.

(2) Said appraisal(s) and the appraisal review shall be used by the Department's Right of Way Manager to establish the asking price for the real property.

(3) Except as provided in OAR 734-035-0110, if an asking price in excess of \$5,000 is established for any surplus property, the property shall not be sold to any private person until competitive bids have been requested by the Department.

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

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 270.100
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0090

Publication of Notice of Sale

(1) Except as provided in OAR 734-035-0110, the Department shall give notice of all sales of real property or interest therein with an asking price in excess of \$5,000.

(2) The notice of sale shall contain:

(a) A description of the property by street address and/or by legal subdivision;

(b) The minimum price for which the property will be sold;

(c) A brief statement of the terms of the sale; and

(d) A source to contact for information about the property.

(3) The notice of sale shall be published in accord with the following minimum time standards:

(a) For properties valued between \$5,001 and \$25,000 — Twice during the two-week period preceding the sale by publication in a newspaper of general circulation in the county in which the property is located; or

(b) For properties valued in excess of \$25,000 — Three times during the three-week period preceding the sale by publication in a newspaper of general circulation in the county in which the property is located, and in such other publications as the Department deems appropriate.

(4) In addition to the minimum standards for publication contained in section (3) of this rule, the Department may provide more extensive notice of sale if such additional exposure is prudent due to value of the property, intense interest on the part of the public, or other factors.

(5) In addition to the public notice by advertisement, the Department shall, as much as is practicable, post properties offered for sale with signs indicating their availability for purchase.

Stat. Auth.: ORS 284 & ORS 366
 Stats. Implemented: ORS 270.130
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0100

Property Sales to Political Subdivisions

(1) Political subdivisions, as defined in ORS 271.005, and non-profit housing providers/housing authorities, shall be afforded the first opportunity, after other state agencies, to purchase surplus real property.

(2) The Department may require at the time of sale or transfer of real property to a political subdivision that the property shall be for use of a public purpose or benefit, and not be for resale to a private purchaser.

Stat. Auth.: ORS Ch. 184, 271 & 366
 Stats. Implemented: ORS 270.100
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0110

Exception to Publication of Notice of Sale

The Department may sell or dispose of real property or an interest therein direct to a private party without publication of a notice of sale when the property, because of its size, shape, location, utility,

condition of title, or restriction imposed upon the property by the Department, has minimal value and is useful only to adjacent owners or when, because of local land use ordinances, the property may not be disposed of to anyone other than adjacent property owners.

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 184.634
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0120

Determination of Most Advantageous Bid

(1) The decision of the Department on the question of the most advantageous bid shall be final and conclusive.

(2) The Department shall reserve the right to accept or reject any bid.

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 270.135
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

734-035-0130

Procedure If No Satisfactory Bid Received

(1) At any time during a period of one year after the auction date from which no satisfactory bid was received, the Department may sell the property at a private negotiated sale.

(2) In negotiating a private sale pursuant to section (1) of this rule, the Department shall consider the economic benefit to the Department and the preservation of the Highway Trust Fund.

Stat. Auth.: ORS 184 & ORS 366
 Stats. Implemented: ORS 270.140
 Hist.: HWY 9-1990, f. & cert. ef. 5-24-90

DIVISION 40

JUNKYARDS AND AUTO WRECKING YARDS

Establishment, Maintenance and Operation of Junkyards Along State Highways

734-040-0005

Definitions

Definitions used in these rules and regulations shall be:

(1) "Commission" means the Oregon Transportation Commission.

(2) "Director" means the Director of the Department of Transportation or his duly authorized representative.

(3) "Federal-Aid Primary System" means the system of state highways described in **Section 103(b), Title 23, United States Code**, as selected and designated by the Commission.

(4) "Interstate System" means every state highway that is part of the National System of Interstate and Defense Highways established by the Commission in compliance with **Section 103(d), Title 23, United States Code**.

(5) "Junk" means all the materials described in section (6) of this rule.

(6) "Junkyard" means any establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles, or motor vehicle parts, iron, steel or other old scrap, ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

(7) "Maintain" means to allow to exist.

(8) "Main Traveled Way" means the through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps.

(9) "State Highway" or "State Highway System" means the entire width between the boundary lines of every road or highway designated as a "state highway" by law or by the Oregon Transportation Commission pursuant to law and includes both primary and secondary state highways including but not limited to the Interstate System and the federal-aid primary system.

(10) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

(11) "Zoned Industrial Area" is an area adjacent to a state highway or public highway which is zoned industrial under authority of state law.

(12) "Scenic Highway" is any state highway or segment of state highway adjacent to a scenic area established by the Scenic Area Board under the provisions of ORS 377.530.

(13) "Existing Junkyard" is any junkyard in existence prior to June 30, 1967.

(14) "New Junkyard" is any junkyard which came into existence after June 30, 1967.

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

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.605 - ORS 377.655

Hist.: HC 1278, f. 5-27-72

734-040-0010

New Junkyards

No new junkyard shall be established which is visible from the main traveled way of a scenic highway or which is located within 1,100 feet of the nearest edge of the right of way of any other state highway unless:

(1) The junkyard is hidden or adequately screened by the terrain or other natural objects, or by plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the state highway.

(2) The junkyard is located in a zoned industrial area.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.620 & ORS 377.510

Hist.: HC 1278, f. 5-27-72

734-040-0015

Existing Junkyards

No existing junkyard may be maintained within 1,000 feet of the nearest edge of the right of way of any state highway except:

(1) Junkyards that are hidden or adequately screened by the terrain or other natural objects, or by plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the state highway.

(2) Junkyards located in a zoned industrial area.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.620

Hist.: HC 1278, f. 5-27-72

734-040-0020

Screening Regulations

Screening by means of plantings, fences, or other appropriate means shall be in accordance with a design approved by the Engineer:

(1) For New Junkyards:

(a) Shall be located off the state highway right of way;

(b) Shall be constructed and maintained by the person owning or operating the junkyard in accordance with a design approved by the Engineer.

(2) For Existing Junkyards:

(a) Shall be located on the state highway right of way or in areas outside the right of way acquired for such purposes by the Commission;

(b) Shall be constructed and maintained by the Commission using funds available to the Commission.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.625

Hist.: HC 1278, f. 5-27-72

734-040-0025

State Highways Designated After June 30, 1967

These same rules and regulations will apply to junkyards located within restricted areas adjacent to state highways designated after June 30, 1967, as for those in existence prior to June 30, 1967; however, the definitive date differentiating between new and existing junkyards shall be the date the state highway was designated in place of June 30, 1967.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.620

Hist.: HC 1278, f. 5-27-72

734-040-0030

Fencing and Screening Auto Wrecking Yards Not in a Building

All auto wrecking yards in Oregon are to be screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of a state highway or an arterial highway:

(1) Definitions:

(a) "Arterial Highway": A county road or a city street designated as a through street by a city or a county.

(b) "Visible": Capable of being seen without visual aid by a person of normal visual acuity from a point 4.5 feet above the pavement of the main traveled way.

(c) "See Through": Refers to the open space between the pickets, boards, slats, mesh or natural plantings.

(2) Facilities within 1,100 feet of interstate and primary highways, except in conforming zones which will accept auto wrecking yards:

(a) "Shall be screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight." (Public Law 89-285 Title II, Section 201, #136(c));

(b) Fencing of man-made materials can have no "see through" tolerance;

(c) Natural plantings must give immediate screening with no "see through" tolerance.

(3) Except on interstate or primary highways facilities within a zoned area which accepts auto wrecking yards must: Screen the view from the highway user to a height of six feet at the fence line and allow not more than 40 percent "see through" by actual measurement.

(4) Except on interstate or primary highways facilities which are a nonconforming use in commercial, agricultural, silvicultural or undeveloped areas must: Screen the view from the highway user and allow not more than 25 percent "see through" by actual measurement.

(5) Except on interstate or primary highways facilities which are a nonconforming use in residential areas must:

(a) Screen the view from the highway user and allow not more than 25 percent "see through" by actual measurement;

(b) Where an auto wrecking yard abuts a nonarterial street, or road, an alley, or is visible from a residence, the fence must screen the view into the enclosure or barrier to a height of six feet at the fence line and allow not more than 25 percent "see through" by actual measurement.

(6) If screening is done with a man-made fence, the fence must:

(a) Be designed and constructed to withstand wind pressure of 20 pounds per square foot;

(b) Be constructed in a workmanlike manner with uniform and balance alignment, in accordance with good fencing industry practice;

(c) Have gates that are kept closed except for actual use for ingress or egress of moving vehicles or have gateways so constructed to screen the inventory and operation from highway user at all times;

(d) Be subject to either county or city ordinances and conform to the most stringent rule;

(e) Be in conformance to above requirement by July 1, 1976. New yards are to be in conformance six months from date of license;

(f) Have regular maintenance consisting of painting, if required, and prompt repair of damage. Allow reasonable time after written notice for the work to be done.

(7) If screening is to be accomplished by natural vegetation, the landscape will be of an evergreen variety, compatible to the area, be planted with a program for watering and maintenance according to good landscape industry practice and planted by July 1, 1976. The vegetation planted shall be of sufficient size to grow to a height capable of screening the yard from view of the highway user by July 1, 1981. New yards shall have five years from the date of establishment.

(8) An auto wrecking yard may have a physical or natural barrier which screens the non-operating vehicles and operation from the view of the highway or arterial user.

(9) Auto wrecking yards and junkyards which are a nonconforming use and in existence prior to June 30, 1967, that can only be practically screened by landscape plantings, man-made fences or other appropriate means placed upon highway right-of-way and/or upon property adjoining the owner's property may be screened at state expense, subject to the availability of State and Federal Highway Administration funds and approval.

Stat. Auth.: ORS 822

Stats. Implemented: ORS 377.625

Hist.: 1 OTC 64, f. 12-3-75, ef. 12-25-75

DIVISION 50

WEIGHT RESTRICTIONS FOR
HIGHWAYS AND LAND USE PERMITS

Weight Restrictions for Highways

734-050-0090

Procedure for Designating Highway Weight Restrictions

(1) The Director may designate any highway or section of highway (including bridges and other structures) which should be subject to weight restrictions. The Director may impose such weight restrictions considered proper subject to the following conditions:

(a) An inspection has indicated that a condition exists which requires action to prevent or reduce damage to the highway or section thereof or which may jeopardize the safety of motorists on the highway or section thereof;

(b) An engineering evaluation has been performed and the safe load carrying capacity of the highway or section thereof has been determined; and

(c) Maximum allowable weights consistent with the finding of the engineering evaluation have been established for vehicles or combinations of vehicles traveling upon the highway or section thereof.

(2) Upon fulfilling the requirements set forth in subsections (1)(a) through (c) of this rule, the Director shall prepare a written order which:

(a) Describes the highway or section of highway which will be affected;

(b) Discloses the results of the required inspection and evaluation; and

(c) Specifies the restriction to be imposed.

(3) Upon the signing of the order by the Director, posting of signs and enforcement of the restriction shall be as provided in ORS Chapters 810 and 818.

(4) The following definitions shall apply to the order and signs posted under section (3) of this rule:

(a) A "Class A" restriction or weight limit means the maximum allowable weight shall be 12,000 pounds for the steering axle and 10,000 pounds for each additional axle; and

(b) "Steering Axle" means the first axle of the truck or tractor which is controlled by the steering wheel of the vehicle.

Stat. Auth.: ORS 184.616 & ORS 810.030

Stats. Implemented: ORS 810.030 & ORS 818

Hist.: 1 OTC 12-1978(Temp), f. & ef. 12-19-78; 1 OTC 7-1979, f. & ef. 4-19-79; HWY 4-1996, f. & cert. ef. 8-15-96

Land Use Permits

734-050-0105

Fee Schedule for Land Use Permits

When, in the determination of the Department's Right-of-Way Manager that use restrictions exist which prevent charging economic rent for lands under the jurisdiction of the Department, the Department may issue a land use permit and shall charge the following administrative processing fee:

(1) Gratis — The monetary benefits to the Department exceed the cost of permit preparation and review;

(2) \$50 for a simple permit preparation with little or no field inspection and no plan review; or

(3) \$150 for a complex permit preparation requiring a plan review and continuing inspection.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 374.310

Hist.: 2HD 1-1982, f. & ef. 5-26-82

DIVISION 51

HIGHWAY APPROACHES, ACCESS CONTROL,
SPACING STANDARDS AND MEDIANS

734-051-0010

Authority for Rules

Division 51 rules are promulgated under the Director's authority contained in ORS 374.310(1).

Stat. Auth.: ORS 184.616, 184.619, 374.310 & Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0020

Purpose of Rules

The purpose of Division 51 rules is to govern the issuing of Construction Permits and Permits to Operate, Maintain and Use an Approach for approaches onto state highways. OAR 734-051-0010 through 734-051-0480 provide administrative procedures and criteria necessary for issuance of Construction Permits and Permits to Operate, Maintain and Use an Approach; criteria and requirements for approving deviations; fees, and project administration related issues.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - ORS 374.325 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0030

Applicability of Rules

(1) Subject Matter. Division 51 rules apply to the location, construction, maintenance and use of approaches onto the state highway rights of way and properties under the jurisdiction of the Department of Transportation. Division 51 rules also govern closure of existing approaches, spacing standards, medians, deviations, appeal processes, grants of access and indentures of access.

(2) When a Construction Permit is Required. A Construction Permit to construct an approach to the state highway is required for a new connection to a state highway, and is required when there is a change in use of an existing connection to a state highway (OAR 734-051-0110). Division 51 rules describe two components of approval to construct an approach: criteria for approving an Application for an Approach (OAR 734-051-0080) which leads to a Construction Permit (OAR 734-051-0230), and the Permit to Operate, Maintain and Use an Approach (OAR 734-051-0290).

(3) Rules Effective. These rules shall apply to all approaches in existence on or after the effective date of the rules, and to all approach applications filed on or after the effective date of the rules. This language shall not be construed to change the existing rights of grandfathered approaches.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - ORS 374.325 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0040

Definitions

The following definitions apply to Division 51 rules:

(1) "Access Control" means no right of access exists between a portion of, or all of a property abutting the highway and the highway. Access rights may be eliminated by acquisition including purchase, donation, condemnation or by law, or access rights might not accrue to a property at all because of operation of law.

(2) "Acquired" means the elimination of the right of access. (See Access Control.)

(3) "Applicant" means the person, firm or corporation, or other legal entity who applies for an approach or deviation. "Applicant" includes the owner or lessee of the property abutting the highway, or the holder of an easement or similar right to construct and use a facility upon the abutting property, or their designated agent.

(4) "Application" means the fully executed form, "Application for State Highway Approach," and may include "Supplemental Documentation for State Highway Approach," as necessary, along with all required documentation and attachments, necessary to determine if a Construction Permit for a state highway approach can be issued.

(5) "Application for State Highway Approach" means the fully executed form, "Application for State Highway Approach," along with all required documentation and attachments, necessary to determine if a Construction Permit for a state highway approach can be issued.

(6) "Approach" for the purposes of Division 51 rules means an approach road or private road crossing.

(7) "Approach road" means a public or private roadway, or driveway connection between the outside edge of the shoulder or curb line and the right of way line of the highway, intended to provide vehicular access to and from said highway and the adjoining property.

(8) "Classification of highways and highway segment designations" means the Department's designation of state highways into four categories: Interstate, Statewide, Regional, and District. Local Interest Roads are primarily District highways and will be identified through a process delineated in the 1999 Oregon Highway Plan.

(9) "Clear zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and/or a clear run-out area. The desired width is dependent upon the traffic volumes and speeds and on the roadside geometry.

(10) "Commission" means the Oregon Transportation Commission.

(11) "Construction Permit" for the purposes of Division 51 rules means a fully executed form, "Permit to Construct a State Highway Approach," along with all required signatures and attachments, including conditions and terms, as deemed necessary by the Region Manager.

(12) "Crash history" means, at a minimum, the three most recent years of crash data as gathered and recorded by the Department's Accident Data Unit.

(13) "Daily development trip generation" includes new, pass by and diverted trips with no reductions.

(14) "Department" or "ODOT" means the Department of Transportation of the State of Oregon.

(15) "Executive Deputy Director" means the person in the position of Executive Deputy Director of the Department of Transportation.

(16) "Existing" in the context of the approach application means an item, such as a roadway, building or utility connection, which is currently present.

(17) "Expressway" means a complete route or segments of existing two-lane and multi-lane highways and planned multi-lane highways that provide for safe and efficient high speed and high volume traffic movements. Expressways are a subset of Statewide, Regional and District highways.

(18) "Fair Market Value" for the purposes of division 51 rules means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.

(19) "Freeway or Expressway ramp" means all types, arrangements and sizes of turning roadways that connect two or more legs at an interchange; and the components of a ramp area terminal at each leg and a connection road, usually with some curvature and on a grade.

(20) "Fully developed urban interchange management areas" are distinguished from urban interchange management areas to acknowledge those areas of well-established existing development within urban growth boundaries. It is recognized that in fully developed urban areas, traffic speeds are generally slower with different driver expectations. A fully developed urban interchange management area occurs when 85% or more of the parcels along the developable frontage are developed at urban densities and many have driveways connecting to the crossroad. In determining whether an interchange is fully developed, it is intended that all quadrants of the interchange be reviewed together.

(21) "Grandfathered approach" means a legally constructed approach that was constructed before permission from the Department was required by law, prior to 1949.

(22) "Grant of Access" means to allow a right of access at a location where the abutting property currently does not have the right of access. Grants of access are also required to remove farm crossing and farm access restrictions on existing reservations of access.

(23) "Highway segment designations" means the four categories of designations (Urban, Commercial Center, Urban Business Area and Special Transportation Area) under the 1999 Oregon Highway Plan available for adoption on different segments of all classifications of state highways in a collaborative process between the Department and local governments during the adoption of highway corridor plans and local Transportation System Plans.

(24) "Indenture of Access" is a modification in the deed record of the location, width, or use restrictions of an existing reservation of access.

(25) "Intersection" means the general area where two or more highways, or a public approach or private approach and a highway, join or cross, including the roadway and roadside facilities for traffic movements within the intersection area.

(26) "Major deviations" are those deviations which depart from the purpose and intent of the access management standards or which potentially have a significant negative impact on safety or traffic operations. Major deviations are all those which fall outside the minor deviations limits.

(27) "May be signalized" means that future traffic volumes may warrant the placement of a signal. Such an evaluation will be in accordance with OAR 734-020-0400 through 734-020-0500.

(28) "Median" means that portion of the roadway that separates opposing traffic streams. Also see nontraversable median and traversable median.

(29) "Minor deviations" are those deviations where the proposed approach placement, or access management technique, substantially complies with the purpose and intent of the access management and design standards.

(30) "Nontraversable median" means a median which, by its design, physically discourages or prevents vehicles from crossing it except at designated openings which are designed for turning movements. Nontraversable medians include grass, flush grass and raised medians. Landscaping is used to delineate medians and is commonly used to actively discourage cross median vehicular movements or pedestrian crossing except at locations designated and designed for such movements or crossings as well as for beautification. Crossings can be provided for emergency and official vehicles.

(31) "Peak hour" for the purposes of Division 51 rules means, in urban areas, the highest one-hour volume observed on the roadway during a typical or average week. In rural areas, generally "peak hour" refers to the 30th highest hourly traffic volume typically observed over the course of a year.

(32) "Permit to Construct" for purposes of Division 51 rules means a fully executed form, "Permit to Construct a State Highway Approach," along with all required signatures and attachments, including conditions and terms, as deemed necessary by the Region Manager.

(33) "Permit to Operate, Maintain and Use a State Highway Approach" for the purposes of Division 51 rules means a fully executed form, "Permit to Operate, Maintain and Use a State Highway Approach," along with all required signatures and attachments, including conditions and terms, as deemed necessary by the Region Manager.

(34) "Permitee" means the person, firm or corporation or other legal entity that holds a legal Permit to Operate, Maintain and Use an Approach for an approach to a state highway or a legal grandfathered approach. "Permitee" includes the owner or lessee of the property abutting the highway, or the holder of an easement or similar right to construct and use a facility upon the abutting property, or their designated agent.

(35) "Planned" means "does not currently exist, but is anticipated for the future" when referring to an item, such as a roadway or utility connection, that is shown in a Transportation System Plan, Corridor Plan or Comprehensive Plan.

(36) "Private approach" means a private roadway or driveway connection serving one or more properties that does not provide connectivity to the local road system. Any roadway that prohibits public use by rule, code, or physical obstruction, such as a gate, shall be considered a private approach. Prohibition of large vehicles or weight restrictions for vehicles greater than 30,000 pounds gross vehicle weight are not considered restrictions of public use.

(37) "Private road crossing" means the crossing of a state highway by a privately owned road which is designed for use by vehicles which are prohibited by law from using state highways, county roads, or other public highways.

(38) "Project Development" means the allocation of resources to plan and construct new highways or modify and improve existing highways.

(39) "Projected" means "does not currently exist, but is anticipated for the future" when referring to an item, such as a roadway, building or utility connection, that may be proposed by an applicant or property owner.

(40) "Public approach" means a public roadway connection serving multiple properties, which is owned and operated by a public entity, and provides connectivity to the local road system.

(41) "Region Manager" means the person in charge of one of each of ODOT's Transportation Regions throughout the State, or his or her designated representative.

(42) "Reservation of Access" means the limitation of an abutting property owner's common law right of access to a specific location where the Department has acquired access control along the highway frontage. A reservation of access is designated to a specified location and may be subject to use restrictions and a specified width. A reservation of access must be designated and specifically identified in the deed or final judgment where the state acquired the access control rights. A reservation of access provides the abutting property owner with the right to apply for an approach pursuant to OAR 734-051-0080 through 734-051-0210.

(43) "Right of access" means the property right of ingress and egress to the roadway or from abutting property.

(44) "Right of way" means highway property and property rights owned or controlled by the Department, which may include the paved roadway, surface, shoulder area, ditches and other drainage facilities, and sidewalks in the border area between the ditches or curbs.

(45) "Rural" means the area outside the urban growth boundary, the area outside a Special Transportation Area in an unincorporated community or the area outside an Urban Unincorporated Community as defined in OAR 660-022-0010(9).

(46) "Supplemental Documentation for State Highway Approach" means all additional required documentation and attachments, necessary to determine if a Construction Permit for a state highway approach can be issued.

(47) "Technical Services Manager" means the person in charge of the Technical Services Division of ODOT, or his or her designated representative.

(48) "Traffic" includes all forms of vehicles using the roadway, including, but not limited to, cars, trucks, vans, recreational vehicles and bicycles.

(49) "Traveling public" includes motorists, pedestrians, bicyclists and transit users who have a legal right to be operating or moving within the highway right of way.

(50) "Traversable median" means a median that by its design does not physically discourage or prevent vehicles from entering upon or crossing it. Such medians include painted medians and continuous two-way left-turn lanes.

(51) "Trip" means a one-way vehicular movement. A vehicle entering a property and later exiting that property has made two trips.

(52) "Urban" means the area within the urban growth boundary, within a Special Transportation Area of an unincorporated community or within an Urban Unincorporated Community as defined in OAR 660-022-0010(9).

(53) "Use restriction" means the limitation of the right of access at a reservation or grant of access to a specified use or restriction against a specified use.

(54) "Volume to Capacity" (V/C ratio) means a measure of roadway congestion, calculated by dividing the number of vehicles passing through a section of highway during the peak hour by the capacity of the section.

(55) "Year of opening" is defined as the one-year period beginning on the projected date the certificate of occupancy is issued.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.305 - ORS 374.325 & Ch. 974, OL 1999
Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0010

734-051-0050

General Policy

It is the policy of the Oregon Department of Transportation to manage access to the highway facilities of the State to the degree necessary to maintain functional use, highway safety, and the preservation of public investment consistent with the 1999 Oregon Highway Plan and adopted local comprehensive plans. Where the Department makes a significant public investment to construct highway improvements identified in the State Transportation Improvement Program, the Department shall adhere to the highway classification and highway segment designation objectives, highway

mobility standards, spacing standards or approved deviation, and safety criteria.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.305 - ORS 374.325 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0060

General Administration

(1) Permits for Approaches. The provisions set forth in OAR 734-051-0010 through 734-051-0480 apply to the issuance of Construction Permits, Permits to Operate, Maintain and Use an Approach, criteria and requirements of process review, deviations, fees and related administrative issues. In addition, the permitting of approaches must be consistent with Oregon Revised Statutes, Oregon Administrative Rules, and the 1999 Oregon Highway Plan.

(2) Intergovernmental Agreements. Cities and counties may enter into Intergovernmental Agreements with the Department to accept applications for private approaches and issue Construction Permits and Permits to Operate, Maintain and Use an Approach for requests for private approaches to regional and district state highways. This includes highways that are routed over city streets, where the city owns the right of way. The intergovernmental agreement will be based on criteria developed by the Department, including, but not limited to, the availability of qualified city or county personnel to implement the agreement.

(3) Grants of Access. The provisions set forth in OAR 734-051-0410 through 734-051-0480 apply to the issuance of grants of access and indentures of access.

(4) Applicability of other Rules. Administrative procedures not provided herein or in the ORS shall comply with the Oregon Administrative Procedures Act to the extent applicable.

(5) Other Agencies. Issuing of Permits to Operate, Maintain and Use an Approach under these regulations is not a finding of compliance with the statewide planning goals or the acknowledged comprehensive plan for the area. Approval of the property for a particular use is the responsibility of the city, county, or other governmental agencies having authority to regulate land use by means of zoning and/or building regulations. It shall be the applicant's responsibility to obtain any such approval including, where applicable, local government determination of compliance with the statewide planning goals.

(6) Notice to Property Owners. Any notice required to be given by the Department to owners of property or applicants for approaches is sufficient if mailed, by first class mail, to the person(s) at the address where property tax statements for the property are sent.

(7) Time Extensions. Extensions of time can be accommodated as set forth in OAR 734-051-0010 through 734-051-0480. Extensions of time must be agreed to by both the Department and the applicant or permittee, and the extension must be agreed to prior to the deadlines as set forth in the rules. Any additional extensions must be agreed to by both the Department and the applicant or permittee prior to the end of the previous extension.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.305 - ORS 374.325 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0070

Timelines for OAR 734-051-0010 through 734-051-0480

(1) The following apply to applications for approaches:

(a) The Department has 30 calendar days from the date of submittal to determine if an application for an approach(es) is complete, and to notify the applicant, as set forth in OAR 734-051-0100(10);

(b) The applicant has 90 calendar days from the date the original application is submitted, or 60 calendar days from the last possible date of notification from the Department, to make the application complete, as set forth in OAR 734-051-0100(11). This time period may be extended if both the applicant and the Department agree to an extension prior to the end of the 90 calendar days:

(A) The meeting between the applicant and the Region Manager as set forth OAR 734-051-0140(3) must take place within the time period stated in subsection (b) of this section; and

(B) All additional required documentation as set forth in OAR 734-051-0130 or 734-051-0140 must be received within the time period stated in subsection (b) of this section;

(c) The Department has 30 calendar days to notify the applicant that the application was denied because required documentation was not received within the specified time period, as set forth in OAR 734-051-0100(11);

(d) The Department has 120 calendar days to approve or deny an application, including final decision on an appeal as set forth in OAR 734-051-0400, after the application is deemed complete, as set forth in OAR 734-051-0100(13);

(A) Sixty calendar days of the 120 calendar days are available for the Department to make a determination on approval or denial of an application for an approach(es), including the approval or denial of a request for a deviation, which may require the use of a Technical Advisory Committee, as set forth in OAR 734-051-0330; and

(B) If a hearing is requested, 60 calendar days are required to schedule and hold a hearing, and to produce a proposed order and final order; and

(e) If the applicant receives an unsatisfactory decision on an application, the applicant has 21 calendar days in which to request a Region Review as set forth in OAR 734-051-0390 or a Hearing as set forth in OAR 734-051-0400, and as referenced in sections (6) and (7) of this rule.

(2) The following apply to submission of construction drawings and plans:

(a) If an application for an approach(es) is approved, the applicant has 30 calendar days to submit construction drawings and plans as set forth in OAR 734-051-0220(1), unless the Region Manager and the applicant agree to a longer time period prior to the end of the 30 calendar days; and

(b) The Region Manager determines the acceptability of construction plans as set forth in OAR 734-051-0220(2), with no time-limit attached to this task.

(3) The following apply to Construction Permits:

(a) The Department has 120 calendar days to issue a Construction Permit as set forth in OAR 734-051-0220(2);

(b) After approval of the Construction Permit, the applicant has 60 calendar days to secure all required signatures and return the signed original copy of the Construction Permit to the Department as set forth in OAR 734-051-0230(7);

(c) If the applicant does not agree to the terms and conditions of the Construction Permit, the applicant has 21 calendar days from the date of mailing of the transmittal as set forth in OAR 734-051-0230(8) to request a Region Review as set forth in OAR 734-051-0390 or a Hearing as set forth in OAR 734-051-0400;

(d) Upon receipt of the Construction Permit with all required signatures, the Department has 15 calendar days to return a final approved Construction Permit to the applicant as set forth in OAR 734-051-0230(6); and

(e) A Construction Permit is considered null and void if an approach(es) is not constructed within the time limit on the Construction Permit as set forth in OAR 734-051-0240(1).

(4) The following apply to the construction of the approach(es):

(a) The applicant is required to provide 48 hours notice to the Region Manager before commencing construction on an approach(es) as set forth in OAR 734-051-0250(1);

(b) The applicant is required to notify the Region Manager when an approach(es) has been constructed as set forth in OAR 734-051-0250(3);

(c) The Department is required to inspect the approach(es) and notify the applicant whether or not the approach(es) has been constructed in a satisfactory manner as set forth in OAR 734-051-0250(3) and 734-051-0290(2)(b);

(d) The Department sets a timeline, usually 60 calendar days, in which the applicant is required to correct any deficiencies as set forth in OAR 734-051-0250(3) and 734-051-0290(2)(b);

(e) If the applicant does not agree with the list of deficiencies, the applicant has 21 calendar days to appeal as set forth in OAR 734-051-0290(2)(b)(A);

(f) The applicant has 60 calendar days to correct the deficiencies as set forth OAR 734-051-0290(2)(b)(B); and

(g) The Region Manager has 60 calendar days to re-inspect the approach(es) or at the applicant's request, whichever comes first, as set forth in OAR 734-051-0290(2)(b)(C).

(5) The following apply to insurance, bonds and deposits:

(a) The applicant must have insurance, bonds and/or deposits in place before construction begins as set forth in OAR 734-051-0280, sections (2) and (7); and

(b) The applicant must provide 30 day written notice of any cancellation or intent not to renew insurance coverage as set forth in OAR 734-051-0280(5).

(6) The following apply to Region Reviews and collaborative discussions:

(a) An applicant or a permittee has 21 calendar days in which to request a Region Review on any unsatisfactory decision on an application, Construction Permit or Permit to Operate, Maintain and Use an Approach as set forth in OAR 734-051-0390(3)(b);

(b) A request for a collaborative discussion may be made by the applicant or the permittee within the Region Review process; and

(c) The Region Review and collaborative discussion processes fall outside the 120-calendar day limitation on the approval or denial of an application for an approach or the issuance of a Construction Permit as set forth in OAR 734-051-0390.

(7) The following apply to hearings:

(a) An applicant or a permittee has 21 calendar days in which to request a hearing on any unsatisfactory decision on an application, Construction Permit or Permit to Operate, Maintain and Use an Approach as set forth in OAR 734-051-0400(1)(b); and

(b) The hearings process falls inside the 120-calendar day limitation on the approval or denial of an application for an approach or the issuance of a Construction Permit as set forth in OAR 734-051-0400(1)(c).

(8) The following applies to grants and indentures of access: The processing of grants and indentures of access, as set forth in OAR 734-051-0410 through 734-051-0470, falls outside the 120-calendar day limitation on the approval or denial of an application for an approach or the issuance of a Construction Permit.

(9) An overview of the approach application, Construction Permit and Permit to Operate, Maintain and Use an Approach process is depicted in Figure 5, hereby adopted and made a part of this rule.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.305 - ORS 374.325 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0080

Criteria for Approving an Application for an Approach

(1) Private Approach. The Department shall approve an Application for an approach for an applicant who applies for a private approach where the subject property has a right of access and the following requirements are met:

(a) Where the applicant has no reasonable access to its property, the applicant demonstrates that each of the following requirements are met:

(A) The private approach to the state highway can be accommodated or mitigated consistent with the safety of the traveling public pursuant to the criteria in section (3) of this rule; and

(B) The private approach is consistent with the classification of the highway and the highway segment designation of the state highway facility.

(b) Where the applicant has reasonable access to its property, the private approach to the state highway is in an urban area, and the applicant demonstrates that each of the following requirements are met:

(A) The private approach to the state highway can be accommodated or mitigated consistent with the safety of the traveling public pursuant to the criteria in Section (3) of this rule;

(B) The private approach is consistent with the classification of the highway and the highway segment designation of the state highway facility;

(C) Those requirements set forth in OAR 734-051-0190 and 734-051-0200 are met or a deviation is approved in accordance with the standards set forth in OAR 734-051-0320 through 734-0051-0350;

(D) The effect of the approach will meet traffic operations standards, signals or signal systems standards as set forth in OAR 734-020-0400 through 734-020-0500;

(E) The highway mobility standards as set forth in the 1999 Oregon Highway Plan are met;

(F) The site design does not rely upon the highway for internal site circulation, as shown in a site plan set forth in OAR 734-051-0170;

(G) The approach to the highway is consistent with an access management plan, as set forth in OAR 734-051-0360(8), for the segment of highway abutting the property, if applicable;

(H) The approach to the highway is adequate to serve the volume and type of traffic reasonably anticipated to the site, as set forth in OAR 734-051-0130; and

(I) Where additional approaches are requested, more than one approach is necessary to accommodate and service traffic as may be reasonably anticipated to the property.

(c) Where the applicant has reasonable access to its property, the private approach to the state highway is in a rural area, the reasonable access is not or cannot be made adequate to serve the volume and type of traffic reasonably anticipated to the site and the applicant demonstrates that each of the following requirements are met:

(A) The private approach to the state highway can be accommodated or mitigated consistent with the safety of the traveling public pursuant to the criteria in section (3) of this rule;

(B) The private approach is consistent with the classification of the highway and the highway segment designation of the state highway facility;

(C) Those requirements set forth in OAR 734-051-0190 and 734-051-0200 are met or a deviation is approved in accordance with the standards set forth in OAR 734-051-0320 through 734-051-0350;

(D) The effect of the approach will meet traffic operations standards, signals or signal systems standards as set forth in OAR 734-020-0400 through 734-020-0500;

(E) The highway mobility standards as set forth in the 1999 Oregon Highway Plan are met;

(F) The site design does not rely upon the highway for internal site circulation, as shown in a site plan set forth in OAR 734-051-0170;

(G) The approach to the highway is consistent with an access management plan, as set forth in OAR 734-051-0360(8), for the segment of highway abutting the property, if applicable;

(H) The approach to the highway is adequate to serve the volume and type of traffic reasonably anticipated to the site, as set forth in OAR 734-051-0130; and

(I) Where additional approaches are requested, more than one approach is necessary to accommodate and service traffic as may be reasonably anticipated to the property.

(d) Subsection (c) of this section does not create an obligation that the Department close an existing private approach to the state highway when the character and volume of traffic are not substantially different than prior uses of the approach, unless there is a concern regarding safety of the traveling public pursuant to the criteria in section (3) of this rule.

(2) Public Approach. The Department shall approve an Application for an approach for an applicant who applies for a public approach where the subject property has a right of access and the applicant demonstrates that each of the following requirements are met:

(a) The public approach can be accommodated or mitigated consistent with the safety of the traveling public pursuant to the criteria in section (3) of this rule and the function of the state highway facility;

(b) The public approach can be accommodated or mitigated consistent with the classification of the highway and the highway segment designation of the state highway facility;

(c) The approach enhances connectivity consistent with adopted comprehensive plans, transportation system plans and corridor plans;

(d) Those requirements set forth in OAR 734-051-0190 and 734-051-0200 are met or a deviation is approved in accordance with the standards set forth in OAR 734-051-0320 through 734-051-0350;

(e) The approach to the highway is adequate to serve the volume and type of traffic reasonably anticipated to the properties served, as set forth in OAR 734-051-0130(4);

(f) Highway mobility standards as set forth in the 1999 Oregon Highway Plan are met;

(g) The approach to the highway is consistent with an access management plan, as set forth in OAR 734-051-0360(8), for the segment of highway abutting the property, if applicable;

(h) A public approach that either is or may be signalized is spaced such that it adheres to the criteria as set forth in OAR 734-020-0400 through 734-020-0500; and

(i) The Permit to Operate, Maintain and Use an Approach must be issued to the local jurisdiction.

(3) Safety Criteria. For the purposes of sections (1) and (2) of this rule, the factors considered when evaluating the safety of the traveling public for both the highway and the approach include, but are not limited to:

(a) Roadway character, such as classification, number of lanes, capacity, median treatment, and traffic controls;

(b) Traffic character, such as speed, crash history, existing and projected volume, vehicle types, pedestrians, site circulation and peak hour character;

(c) Geometric character, such as topography, horizontal curves, vertical curves, stopping sight distance, intersection sight distance, clear zone, and right of way; and

(d) Environmental character, such as urban, rural, timber, wetland, drainage and snowplowing needs.

(4) Exceptions to sections (1) and (2) of this rule. Exceptions to sections (1) and (2) of this rule include the following:

(a) An application for an approach will not be considered when that highway facility is designated a freeway, a freeway ramp or an expressway ramp. An application for an approach located within the influence area of a freeway interchange ramp terminal will be considered according to the provisions of OAR 734-051-0200; and

(b) An application for an approach will be considered if the highway facility is designated an expressway or is located within the influence area of an expressway interchange ramp terminal as provided in OAR 734-051-0200, only when consistent with the requirements of ORS 374.310(3) and the 1999 Oregon Highway Plan. An application for a private approach will not be considered to expressways, or within the influence area of an expressway interchange ramp terminal, where reasonable access is available.

(5) Conditional Approval. If a land use action is pending on the property for which a request for an approach has been submitted, action on the approach application request can proceed and an approval, conditioned upon receiving the appropriate land use approval, may be issued.

(6) Reasonable Access. Where the subject property has a right of access, not withstanding any other provision of this rule, powers shall not be exercised so as to deny any property adjoining the road or highway reasonable access. (ORS 374.310(3) and 374.315) In determining what is reasonable, the Department shall consider at least the following criteria:

(a) The authorized and planned uses for the property identified in the acknowledged local comprehensive plan; and

(b) Whether the type, number, size and location of the approach(es) is adequate to serve the volumes and type of traffic reasonably anticipated to the site, based on the planned uses.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0090

Application Submittal Requirements

(1) The Department shall require such information as is necessary to:

(a) Determine with reasonable specificity the scope of the application; and

(b) Form a rational basis for decision-making in the approval or denial of the approach application.

(2) Applications shall be made through use of the Application for State Highway Approach, with any required attachments.

(3) A nonrefundable administrative fee of \$50 is required for each approach requested and must be submitted with the application for an approach(es).

(4) No administrative fee shall be charged where the approach is constructed or reconstructed by the Department or its contractor as a part of a road improvement or construction, reconstruction, or modernization project, or any other roadway project as determined by the Region Manager, such as preservation, safety and operation

projects that affect curb placement or sidewalks. However, a Permit to Operate, Maintain and Use an Approach is still required.

(5) All materials submitted become the property of the Department.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; 2HD 13-1981, f. & ef. 10-2-81; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0015

734-051-0100

Application Procedure

(1) The Region Manager, the applicant or a local government representative may request a meeting to discuss the application process or any information required.

(2) The purpose of the application referred to in OAR 734-051-0080 and 734-051-0090 is to request an approach to a state highway. All of the following apply to the application process:

(a) The requirements for the contents of the application are set forth in OAR 734-051-0130 and 734-051-0180;

(b) The information required in OAR 734-051-0130 through 734-051-0180 may be modified by the Region Manager depending upon the nature of the application;

(c) If a right of access exists, and no additional information or documentation is needed to determine approval of the application, a Construction Permit may be issued based on the initial application, as set forth in OAR 734-051-0130;

(d) In some cases supplemental documentation is necessary to complete the application process, as set forth in OAR 734-051-0140;

(e) If the application is approved, a Construction Permit, as set forth in OAR 734-051-0230, will be issued; and

(f) Once an approach has been constructed in conformance with all the terms and conditions of the Construction Permit and inspected by the Region Manager, a Permit to Operate, Maintain and Use an Approach will be issued, as set forth in OAR 734-051-0290.

(3) Each Region Manager shall issue, enforce, cancel and maintain records of applications, Construction Permits and Permits to Operate, Maintain and Use an Approach.

(4) Applications for an approach to a state highway shall be made on a standard state form, available at all Department District offices. The application is submitted to the appropriate Region Manager through the appropriate District office.

(5) The Region Manager shall make the final determination of whether sufficiency of the specific information required for an application is complete. Information used to determine the completeness shall include, but not be limited to, the information supplied by the applicant and the on-site review, as set forth in section (6) of this rule.

(6) The Region Manager shall conduct an on-site review of the property to determine potential issues that may need to be addressed by a traffic impact study. The review area shall be both sides of the highway in the immediate vicinity of the proposed land use or development, including the site frontage and approach(es) and the nearest public road intersection(s) within 600 feet.

(a) The on-site review shall consider the following, including, but not limited to:

(A) Sight distance and other safety-related issues within the immediate site vicinity (e.g., nearby public intersection(s), crash history, corner sight distance at approach, etc.);

(B) Geometrics and operations of the proposed approach;

(C) Alternative access and mitigation measures;

(D) Possible median control; and

(E) Possible need for a deviation.

(b) The on-site review may consider the need for the following, including but not limited to:

(A) Capacity analysis for site approach;

(B) Left turn lane requirements;

(C) Deceleration lanes/right turn lane requirements;

(D) Traffic signal warrants, timing, progression as set forth in OAR 734-020-0400 through 734-020-0500;

(i) If the Region Manager determines traffic devices may be necessary, the Region Manager will contact the State Traffic Engineer; and

(ii) The State Traffic Engineer will begin evaluation and analysis as appropriate;

(E) Information demonstrating the accommodation of bicycle, pedestrian and transit modes, and effects of the proposal on other modes such as air or rail;

(F) Site geometry and layout;

(G) Posted highway speed;

(H) Additional traffic lane requirements;

(I) Types of traffic;

(J) Sidewalks needed; and

(K) Future construction, reconstruction, modernization, preservation or operational projects, if known.

(7) Where the information contained in the application for an approach or the on-site review show that the proposed approach will have significant impact on the transportation facilities, a Transportation Impact Study shall be required, as set forth in OAR 734-051-0180, as well as other documentation as set forth in OAR 734-051-0140, as necessary.

(8) Where the information contained in the application for an approach or the on-site review show that the proposed approach will require a deviation, the following applies:

(a) If a minor deviation is required, the reason for the deviation (see OAR 734-051-0320 through 734-051-0350) shall be documented on the initial application form and the Region Manager shall approve, modify or deny the request; or

(b) If a major deviation is required, the applicant may be required to provide a Transportation Impact Study, as set forth in OAR 734-051-0180.

(9) The time periods prescribed in this rule shall not begin to run until the application is accepted as complete. When the application is considered complete, the Department shall date and initial or stamp the application with the date of acceptance.

(10) An applicant shall be notified within 30 calendar days of receipt of an application whether the application is complete, or whether any additional information is needed to make the application complete. The Region Manager may refuse to accept the application when information considered necessary is missing from the application or when there is no written evidence that the owner(s) of the property concur(s) in the application.

(11) Any application shall be denied if not made complete upon request for further documentation, or within 90 calendar days, from submittal of the original application, whichever shall first occur, unless, prior to the end of the 90 calendar days, the applicant and the Region Manager agree to a longer time period. The reason for denial shall be noted on the application and a copy shall be sent to the applicant within 30 calendar days of denial.

(12) Upon acceptance of the application and any required attachments, the Region Manager shall use OAR 734-051-0010 through 734-051-0480, ORS Chapter 374 and any other applicable state statutes, administrative rules, the 1996 Oregon Highway Design Manual, the Oregon Traffic Management Manual and any other applicable manuals for evaluating and acting on the application.

(13) The Region Manager shall approve or deny an application within 120 calendar days, including the final decisions on the appeal as set forth in OAR 734-051-0400, after the application is deemed complete, unless the applicant and the Department agree to an extension prior to the end of the 120-calendar day limitation.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0110

Change in Use of an Approach

(1) When to submit an Application for State Highway Approach. An Application for State Highway Approach must be submitted whenever there is an action or event that changes the impact on the highway as defined in section (4) of this rule, arising from the use of a private approach, even though there is an existing valid Permit to Operate, Maintain and Use an Approach or a Permit to Operate, Maintain and Use an Approach may not have been required previously because it was a grandfathered approach.

(2) Change of Use Review Process. The Department, the applicant, and other governmental agencies will look at the change of use issue when one or more of the following, by way of example, occur:

(a) Change in the zoning or a plan amendment designation;

(b) Construction of new buildings;

(c) Increase in floor space of existing buildings;

- (d) Division or consolidation of property boundaries;
- (e) Change in the character of the traffic using the approach;
- (f) Change in internal circulation design; or
- (g) Reestablishment of a property's use, where such use has been discontinued for a period of two years or more.

(3) The change of use review process does not include:

- (a) Modifications in advertising, landscaping, general maintenance or aesthetics that do not affect internal or external traffic flow or safety; or

(b) Buildout or redevelopment of a previously reviewed and approved development plan which was within the parameters of a transportation impact study not more than five years old from the time of redevelopment, or certified by an Oregon Registered Professional Engineer with expertise in traffic that the current conditions are substantially the same as those upon which the transportation impact study was based, and as set forth in OAR 734-051-0180.

(4) The change of use of an approach occurs when the action or event, outlined in section (2) of this rule, affecting the subject property results in one or more of the following effects:

(a) The site traffic volume generation increases by 25 vehicles or more, in the peak hour, or creates operational problems on the adjacent roadway;

(b) The peak hour volume of a particular movement to or from the highway increases by 20% or more;

(c) Use of the approach by vehicles exceeding the 20,000 pound gross vehicle weight increases by 10 vehicles or more per day;

(d) The location of the approach does not meet minimum sight distance requirements or is located where vehicles entering or leaving the property are restricted or such vehicles queue or hesitate on the highway, creating a safety hazard; or

(e) A change in internal traffic patterns that may cause safety problems such as a backup onto the highway or traffic crashes in the approach throat area.

(5) A change of use can be determined by field counts, site observation, traffic impact analysis or study, field measurement, crash history, Institute of Transportation Engineer Trip Generation Manual, and information and studies provided by the local agency.

(6) A Construction Permit for an approach where there is a change of use shall be issued in accordance with the criteria for approving an approach as set forth in OAR 734-051-0080. An application for an approach shall be submitted as set forth in OAR 734-051-0090, 734-051-0100, 734-051-0130 and 734-051-0140, and construction drawings and plans as set forth in OAR 734-051-0220 and a Construction Permit as set forth in OAR 734-051-0230 also may be required.

(7) A change in use may require modifications to the existing approach or highway as set forth in OAR 734-051-0210.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
 Hist.: 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00;
 Renumbered from 734-050-0065

734-051-0120

Temporary Approaches

(1) A temporary approach is one that is constructed, maintained and operated for a specified period of time, such as during construction of a development, and removed at the end of the specified period of time.

(2) Application for a temporary approach is made on the same application form as a permanent approach and requires the same information, as set forth in OAR 734-051-0130.

(3) A Construction Permit and a Permit to Operate, Maintain and Use a temporary approach for a specified period of time requires a deposit of not less than \$100 per approach to guarantee its removal by the applicant on or before the Permit to Operate, Maintain and Use a temporary approach expiration date. If no expense is incurred by the Department in the satisfactory removal of the temporary approach, the entire amount of the deposit shall be refunded to the applicant. If expenses are incurred by the Department, the applicant will be billed for the amount in excess of the amount deposited or refunded the difference if the expense is less than the amount deposited, following the submittal of a detailed invoice which may be appealed pursuant to OAR 734-051-0390, 734-051-0400, and 734-051-0480.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
 Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0060

734-051-0130

Application for an Approach

(1) Required Materials. Applicants must submit ALL the materials described in this rule on or attached to the form, Application for State Highway Approach. The degree of specificity in the required information shall depend upon the scope of the proposed development.

(2) If an access right exists and no additional information or documentation is needed to determine approval of the application:

(a) The Construction Permit can be issued based on the information supplied on the application; or

(b) If construction or reconstruction of an approach is not required, a Permit to Operate, Maintain and Use an Approach can be issued based on the information supplied on the application.

(3) Names. The applicant shall submit complete names, addresses, email addresses (if available) and telephone numbers of the property owner(s) of record and the applicant(s). When the owner or the applicant is a company, corporation or other agency, the office and the name of the responsible officer shall be provided. Any corporation or limited partnership must be licensed to do business in Oregon, and as set forth in ORS 60.111, each corporation shall continuously maintain in this state a registered agent and registered office.

(4) Property Location Information. The applicant shall submit the following property location information:

- (a) State highway name and route number;
- (b) Milepoint;
- (c) Side of highway;
- (d) Property address;
- (e) Description or name of nearest landmark or cross street and distance and direction from requested approach;
- (f) Township;
- (g) Range;
- (h) Section and tax lots;
- (i) Existing ingress/egress easements on or to the property;
- (j) Streets or roads that border the property;
- (k) Current property zoning;
- (l) Use permit number or land use case number (if any); and
- (m) Whether a change in property zoning will be needed.

(5) Approach Information. The applicant shall submit the following information relating to the approach:

- (a) Use or proposed use of approach (e.g., residential, commercial, industrial);
- (b) Type of approach, indicating whether it is a new or existing approach, a change in use, or a temporary approach; and
- (c) An estimate of the daily vehicle use count for the approach, where one vehicle entering and exiting the property counts as two vehicle trips.

(6) Development Site Sketch. The applicant shall submit a sketch of the proposed development site, not required to be to scale, including the following:

- (a) Proposed approach(es) — use solid lines;
- (b) Existing approach(es) — use dashed lines;
- (c) Traffic flow pattern — use arrows;
- (d) Existing, planned and proposed streets or roads that border the property;
- (e) Highway edge of pavement(s);
- (f) Existing buildings including square footage and number of units — use dashed lines;
- (g) Proposed buildings including square footage and number of units — use solid lines;
- (h) Location and distance in both directions to nearest approaches to other properties on both sides of the highway;
- (i) Name, location, distance and direction to nearest landmark or cross street; and
- (j) Arrow indicating North.

(7) County tax lot map. A current county tax lot map that identifies the ownership of all contiguous properties to the applicant's property shall accompany the application form.

(8) Photocopy of existing recorded easements. If the property has any existing ingress or egress easements on or to the property,

a photocopy of the recorded easement(s) shall accompany the application form.

(9) Applicant signature. The applicant shall sign the application. The applicant's signature indicates that the applicant declares, certifies and affirms under penalty of applicable state or federal laws that all information provided on the application form and submitted attachments are to the best of his or her knowledge true and complete.

(10) Property owner concurrence. If the applicant is other than the owner of the property to be served, the applicant also shall include written evidence of concurrence in the application by the owner.

(11) Required Local Government Action. If a land use action is pending on the property for which a request for an approach has been submitted:

(a) Action on the approach application request can proceed and an approval, conditioned upon receiving the appropriate land use approval, may be issued, as set forth in OAR 734-051-0080(5);

(b) The applicant is responsible for providing the Department written proof of the outcome of the local government land use action or zoning change; and

(c) Only after receiving written proof of the appropriate local government land use approval will the Department issue a Construction Permit.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0140

Supplemental Documentation for Application

(1) When the Supplemental Documentation May be Necessary. Additional documentation may be required if the information contained in the Application for State Highway Approach or the on-site review show that the proposed approach will have significant impact on the transportation facilities.

(2) Required Materials. Following the on-site review the Region Manager may determine that supplemental information is necessary to make a determination regarding an approach request. The following applies to supplemental documentation:

(a) In cases where supplemental documentation is necessary to complete the application process, the applicant shall submit ALL the materials and attachments described in this rule, except where in the judgment of the Region Manager certain elements may be reduced; and

(b) The degree of specificity in the required information shall depend upon the scope of the proposed development.

(3) Step One. If additional documentation is required, the applicant shall meet with the Region Manager to discuss the application process and additional documentation required. The required additional documentation shall be identified and defined at this meeting. More than one meeting may be requested by either the applicant or the Region Manager.

(4) Step Two. The applicant shall provide ALL the following information, except where in the judgment of the Region Manager and communicated to the applicant at the Step One meeting set forth in section (3) of this rule, certain elements may be omitted:

(a) The type of development, including the number of buildings and units and the square footage thereof with a complete description of the proposed land uses of the property(s) to be served by the approach(es);

(b) Vicinity map(s) as set forth in OAR 734-051-0150;

(c) Drainage plan as set forth in OAR 734-051-0160;

(d) Map(s) showing existing and proposed, if known, utility locations before and after development in and along the highway;

(e) Site plan as set forth in OAR 734-051-0170;

(f) Transportation Impact Study as set forth in OAR 734-051-0180;

(g) An Access Management plan as a mitigation measure, as set forth in OAR 734-051-0210(4);

(h) Hazardous material collection and/or treatment system report;

(i) Deviation to access management standards as set forth in OAR 734-051-0320 through 734-051-0350;

(j) Indenture of Access as set forth in OAR 734-051-0450 through 734-051-0470; and

(k) Grant of Access as set forth in OAR 734-051-0410 through 734-051-0440 and 734-051-0470.

(5) After the application is deemed complete, the Region Manager shall approve or deny an application within 120 calendar days, including the final decisions on appeal as set forth in OAR 734-051-0400, unless the applicant and the Department agree to an extension prior to the end of the 120-calendar day limitation, as set forth in OAR 734-051-0100(13).

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0150

Vicinity Map

(1) In general, the vicinity map(s) or photos shall contain sufficient detail to show at least twice the applicable spacing standard on both sides of the roadway along any roadway available for ingress and egress from the property to document the requirements of the transportation impact study.

(2) Vicinity map(s) shall show the following:

(a) Location on state highway by milepost, engineer's station, or other landmarks;

(b) Existing highway plan and access management controls;

(c) Existing land uses and zoning;

(d) Existing ingress or egress easements;

(e) Adjoining lots with their development footprints and approaches, and any other approaches onto any existing, planned and proposed abutting roads and streets abutting the site to show at least twice the applicable spacing standard on both sides of the roadway along any roadway available for ingress and egress from the property; and

(f) Structures and other features (e.g., traffic signals, drainage ditches and pipes, streams, ponds, lakes or railroads).

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0160

Drainage Plan

(1) A preliminary drainage plan of the site shall show impacts to the highway right-of-way. If the Region Manager determines a drainage study is necessary, it shall be prepared by an Oregon Registered Professional Engineer.

(2) A drainage study is usually required if:

(a) The total peak runoff entering the Department's right-of-way is greater than 0.05 cubic meters per second; or

(b) The improvements create an increase of the impervious surface area by greater than 1,000 square meters.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 792 & Ch. 794, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0170

Site Plan

The site plan shall be to scale, and shall include:

(1) Existing and proposed approach(es) from the property to the highway as well as to other existing, planned and proposed streets and roads;

(2) Existing, planned and proposed utilities, if known, including in and along the highway;

(3) Right of Way survey and land donation (if applicable);

(4) Identification of protected resource areas such as wetland, timber, or archeological sites, and any identified location of mitigation;

(5) Identification of proposed traffic mitigation measures;

(6) Existing and proposed buildings;

(7) Existing and proposed property lines;

(8) On-site traffic flow pattern;

(9) Parking, including number and arrangement of all spaces including disabled;

(10) Drive through windows/gas pumps;

(11) Existing, planned or proposed transit facilities, such as turnouts;

(12) Sight clearance including landscaping;

(13) Existing, planned and proposed sidewalks on site or on the highway right of way; and

(14) North arrow on drawings.
Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0180

Transportation Impact Study

(1) When a Transportation Impact Study (TIS) is required. The requirement by the Department of Transportation for a TIS will be identified and the scope of the TIS will be determined by the Region Manager at the application meeting as set forth in OAR 734-051-0140(3). A TIS may be required by local government under conditions different than those required by the Department. The Department's requirements and scope for a TIS should not be interpreted as satisfying the local government requirements and scope for a TIS. A TIS shall be required by the Department for:

(a) Any proposed development that is expected to generate vehicle trips that equal or exceed 600 daily trips or 100 hourly trips;

(b) Any proposed zone change or comprehensive plan change; or

(c) Any proposed development or land use action where the on-site review as set forth in OAR 734-051-0100(6) indicates that operational concerns or safety concerns, as set forth in OAR 734-051-0080(3), require a TIS.

(2) Requirements for a TIS. A TIS shall be prepared by an Oregon Registered Professional Engineer with expertise in traffic, in accordance with Department approved methods and input parameters, and of sufficient scope and detail to allow the Department to evaluate the impact of the proposal and the need for roadway capacity, operational, and safety improvements resulting from the proposed approach. The source of all data and the application of such data in the analysis shall be identified by the applicant.

(3) Analysis Area. This section identifies the maximum analysis area. This area may be reduced as necessary during the application meeting as set forth in OAR 734-051-0140(3). Unless otherwise determined by the Region Manager at the application meeting, the analysis area shall include:

(a) Both sides of the highway along the entire frontage of the property(ies) involved;

(b) All state highways and major city or county streets which directly serve the proposed development or land use change, as well as any interchange ramps in the area, as defined in OAR 734-051-0200;

(c) All proposed approaches;

(d) Any public approach or private approach intersection where the proposed development can be expected to add 300 vehicle trips in a single day or more than 50 additional vehicle trips in any single hour, or an approach to the intersection; and

(e) Any road segment or intersection where the additional traffic created by the proposed development is greater than 10 percent of the current traffic volume for road segments or the current entering volume for intersections.

(4) Future Year Analysis. The TIS submitted shall address Year of Opening conditions and may require a future year analysis depending upon the development trip generation. Requirements for analysis beyond the Year of Opening are defined in Table 1, hereby adopted and made a part of this rule. The following requirements apply to future year analyses: [Table not included. See ED. NOTE.]

(a) The future year analysis area, at a minimum, shall include twice the spacing standard for approaches, as set forth in OAR 734-051-0190, and, if appropriate, to include the nearest signalized intersection(s);

(b) The purpose of a future year analysis is to determine future safety and operation of the approach. The Department shall use the information from future year analyses provided through the TIS as follows, but not limited to:

(A) Identify safety and operational impacts of a proposed development to determine the long term design, location and operational parameters;

(B) Identify future safety and operational issues for purposes of Department and local government planning;

(C) Identify long term impacts of a proposed development and determine the appropriate level of mitigation. The mitigation improvements must have a connection to the impacts of the proposed development and be proportional to the level of impact; and

(D) Identify how a proposed site approach(es) fits into an access management plan, if one has been developed and adopted, and approved by the Department.

(c) The highway mobility standards from the future year analysis will not be used as the basis for denial of the requested approach(es).

(5) Future Year Analysis for Zone Changes and Plan Amendments. The future year analysis shall include Year of Opening conditions and Year of Planning Horizon for Transportation System Plan or 15 years, whichever is greater:

(a) The area of analysis is determined by section (3) of this rule;

(b) The future year analysis for zone changes and plan amendments will be used to determine if highway mobility standards are met; and

(c) The highway mobility standard for the highway segment for future year analysis shall be used to evaluate performance, to improve performance as much as feasible and to avoid further degradation of performance where no performance improvements are feasible.

(6) Data Collection. The Department may add to a database information collected in a TIS submitted pursuant to this rule for the purpose of updating transportation system plans and comprehensive plans.

(7) TIS Documentation Requirements. The submittal requirements may be reduced by the Region Manager during the application meeting as set forth in OAR 734-051-0140(3). However, unless otherwise determined by the Region Manager at the application meeting as set forth in OAR 734-051-0140(3), the TIS submitted shall include the following:

(a) Introduction and Executive Summary;

(b) Proposed Development Description (site and vicinity) including:

(A) Land use and intensity (units, square feet, acres, as applicable);

(B) Location;

(C) Site plan showing recommended site approach(es) and circulation plan;

(D) Vicinity map of study area including zoning; and

(E) Project phasing and time schedule;

(c) Scope of Work and Data Sources;

(d) Existing Area Conditions:

(A) Study area:

(i) Area of potentially significant traffic impact;

(ii) Existing, planned and proposed street network;

(iii) Planned future street and highway improvements;

(iv) Committed future street and highway improvements;

(v) Existing traffic volumes and conditions;

(vi) Public transit availability;

(vii) Existing transportation system management programs;

(viii) Local policy and regulations;

(ix) High accident locations and accident type(s), as pertinent; and

(x) Known operational problems (e.g., lengthy queues, high truck percentage, site distance issues); and

(B) Study area land use(s):

(i) Existing land uses;

(ii) Existing zoning;

(iii) Anticipated future development;

(iv) Planned future development; and

(v) Proposed zoning or plan amendments;

(e) Traffic Forecasts and Distribution must include the following:

(A) Non-site traffic:

(i) Method of projection;

(ii) Documentation of assumptions; and

(iii) Documented historical data;

(B) Site-generated traffic:

(i) Method of generation;

(ii) Trip distribution and assignment;

(iii) Modal split;

(iv) Pass-by trips; and

(v) Internal trip generation; and

(C) Total traffic (combined non-site and site traffic);

(f) Traffic Analysis. The analysis is to include:

- (A) Volume to Capacity (V/C) ratio for all intersections and approaches for each analysis year;
- (B) V/C for critical links for each analysis year;
- (C) Geometrics (must meet current standards specified in the 1996 ODOT Highway Design Manual);
- (D) Left turn requirements;
- (E) Traffic signal warrants, timing and progression as set forth in OAR 734-020-0400 through 734-020-0500;
- (F) Weaving and ramp analysis;
- (G) Sight distance and other safety considerations;
- (H) Queue length analysis and queue conflicts with adjacent approaches;
- (I) Impacts to other transportation modes (bicycle, pedestrian, transit, rail, air, water, etc.);
- (J) Deceleration lanes/right turn lane requirements;
- (K) Transportation Demand Management Measures (TDM);
- (L) Transportation System Management Measures (TSM);
- (M) Various alternative mitigation measures, including all measures suggested by ODOT or the consultant, and feasibility of each alternative;
- (N) Site characteristics — internal circulation, driveway throat length(s) and width(s), and queuing on site, in parking lots;
- (O) Driveway conflicts and impacts to adjacent approaches and street intersections;
- (P) If near an interchange, impact on the interchange ramps, ramp terminals, and any need for ramp metering;
- (Q) Needed right of way for the TIS recommendations;
- (R) Identification of design vehicle(s);
- (S) Truck operations analysis;
- (T) Needed modifications of existing highway appurtenances (e.g., guardrails, landscaping, walkways, manholes, signs); and
- (U) Other operational functions;
- (g) Mitigation alternatives as set forth in OAR 734-051-0210;
- (h) Recommendations for conclusions; and
- (i) Attachments must include:
 - (A) Vicinity map;
 - (B) Site plan;
 - (C) Summarized raw manual and machine traffic count data;
- and
- (D) All calculation and analysis worksheets (e.g., Highway Mobility Standards and signal warrants).

[ED. NOTE: Tables referenced in this rule are available from the agency.]
 Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
 Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0190

Access Management Spacing Standards for Approaches

- (1) It is the policy of the State of Oregon to manage the location, spacing and type of road and street intersections and approaches on state highways to assure the safe and efficient operation of state highways consistent with the classification of the highways and highway segment designations of the highways.
- (2) Access Management spacing standards for the state highways are based on the classification of the highways and highway segment designations of the highways, type of area and posted speed:
 - (a) These access management spacing standards shall be applied to the development of all Department highway construction or reconstruction projects, highway modernization projects, or any other roadway project as determined by the Region Manager, such as preservation, safety and operation projects that affect curb placement or sidewalks, approaches, as well as all planning processes involving state highways, including corridor studies, refinement plans, state and local transportation system plans and local comprehensive plans;
 - (b) These access management spacing standards do not retroactively apply to legal approaches in effect prior to adoption of OAR 734-051-0010 through 734-051-0480, except or until any redevelopment, change of use, or highway or interchange construction projects, highway or interchange modernization projects, or any other roadway or interchange project as determined by the Region Manager, such as preservation, safety and operation projects that affect curb placement or sidewalks, which affect these legal approaches occurs. At that time the goal is to meet the appropriate access management spacing standards, but at the very least to improve current

conditions by moving in the direction of the access management spacing standards;

(c) When in-fill development occurs, the goal is to meet the appropriate access management spacing standards. This may not be possible and at the very least the goal is to improve the current conditions by moving in the direction of the access management spacing standards. Thus, in-fill development should not worsen current approach spacing. This may involve appropriate mitigation, such as joint access; and

(d) In some cases an approach will be allowed to a property at less than the designated access management spacing standards or minor deviation limits, but only where a right of access exists, the designated access management spacing standards or minor deviation limits cannot be accomplished, and that property does not have reasonable access, thus the property would become landlocked without the approach to the state highway. See OAR 734-051-0320(3). Other options should be considered such as joint access.

(3) The Department shall manage access to state highways based on the access management classifications as defined below:

(a) Freeways (National Highway System — NHS) — Interstate and Non-Interstate:

(A) The Department owns the access rights and direct access is not allowed. Users may enter or exit the roadway only at interchanges; and

(B) Opposing travel lanes are separated by a wide median or a physical barrier;

(b) Statewide Highways (NHS):

(A) Rural Expressways:

(i) Private approaches are discouraged;

(I) There is a long-range plan to eliminate, as possible, existing approach(es) as opportunities occur or alternate access becomes available; and

(II) Access rights will be acquired and a local road network may be developed consistent with the function of the roadway;

(ii) Public road connections are highly controlled and must be spaced appropriately. Future grade separations (interchanges) may be an option. Compatible land use actions may be necessary and shall be included in local comprehensive plans;

(iii) Traffic signals are discouraged; and

(iv) Nontraversable medians must be constructed in the modernization of all multi-lane Expressways that have traversable medians;

(B) Rural Other:

(i) Direct access to the abutting property is a minor objective; and

(ii) The function of the highway is consistent with access control as the opportunity arises;

(C) Urban Expressways (Not inconsistent with, but supplemental to the criteria listed for Statewide Rural Expressways.):

(i) Traffic signals are discouraged. Where signals are allowed as set forth in OAR 734-020-0400 through 734-020-0500, their impact on through traffic must be minimized by ensuring that efficient progression of traffic is achieved; and

(ii) Median treatments are considered in accordance with criteria in OAR 734-051-0210 and the 1999 Oregon Highway Plan;

(D) Urban Other (Not inconsistent with, but supplemental to the criteria listed for Statewide Rural Other.) The function of the highway is consistent with access control as the opportunity arises;

(E) Urban Business Areas (UBA) (See the 1999 Oregon Highway Plan, Policy 1B):

(i) UBAs must be designated in a corridor plan and/or local transportation system plan and agreed upon by the Department and the local government;

(ii) Direct property access is less limited than on Urban Other highways;

(iii) Access control may be of lesser importance and access to adjacent land use is a higher priority; and

(iv) Redevelopment and in-fill development are encouraged; and

(F) Urban Special Transportation Areas (STA) (See the 1999 Oregon Highway Plan, Policy 1B):

(i) STAs must be designated in a corridor plan and/or local transportation system plan and agreed upon in writing by the Department and local government;

- (ii) Direct street connections are encouraged;
- (iii) Direct property access is limited;
- (iv) Access control may be of lesser importance and access to adjacent land use for all modes is a higher priority; and
- (v) Redevelopment and in-fill development are encouraged;

(c) Regional Highways:

(A) Rural Expressways (Not inconsistent with, but supplemental to the criteria listed for Statewide Rural Expressways.);

(B) Rural Other. The function of the highway supports selected access control. Access control should be considered where beneficial, such as, but not limited to, ensuring safe and efficient operation between connecting highways in interchange areas, protecting resource lands, preserving highway capacity on land adjacent to an urban growth boundary, or ensuring safety on segments with sharp curves, steep grades or restricted sight distance or those with a history of accidents;

(C) Urban Expressways (Not inconsistent with, but supplemental to the criteria listed for Regional Rural Expressways.) Median treatments are considered in accordance with criteria in OAR 734-051-0210 and the 1999 Oregon Highway Plan;

(D) Urban Other (Not inconsistent with, but supplemental to the criteria listed for Regional Rural Other.) The function of the highway is consistent with selected access control. Access control should be considered where beneficial, such as, but not limited to, ensuring safe and efficient operation between connecting highways in interchange areas, protecting resource lands, or ensuring safety on segments with sharp curves, steep grades or restricted sight distance or those with a history of accidents;

(E) Urban Business Areas (UBA) (See the 1999 Oregon Highway Plan, Policy 1B. Same criteria as Statewide Urban Business Areas.); and

(F) Urban Special Transportation Areas (STA) (Same criteria as Statewide Urban Special Transportation Areas.);

(d) District Highways and Local Interest Roads:

(A) Rural Expressways (Same criteria as Regional Rural Expressways.);

(B) Rural Other. The function of the highway supports access control in limited circumstances, recognizing the balanced demands of traffic movement and access needs. Access control should be considered where beneficial, such as, but not limited to, ensuring safe and efficient operation between connecting highways in interchange areas, protecting resource lands, preserving highway capacity on land adjacent to an urban growth boundary, or ensuring safety on segments with sharp curves, steep grades or restricted sight distance or those with a history of accidents;

(C) Urban Expressways (Not inconsistent with, but supplemental to the criteria listed for Regional Rural Expressways.);

(D) Urban Other (Not inconsistent with, but supplemental to the criteria listed for District Rural Other.) The function of the highway is consistent with access control in limited circumstances, recognizing the balanced demands of traffic movement and access needs. Access control should be considered where beneficial, such as, but not limited to, ensuring safe and efficient operation between connecting highways in interchange areas, protecting resource lands, or ensuring safety on segments with sharp curves, steep grades or restricted sight distance or those with a history of accidents;

(E) Urban Business Areas (UBA) (See the 1999 Oregon Highway Plan, Policy 1B. Same criteria as Statewide Urban Business Areas.); and

(F) Special Transportation Areas (STA) (Same criteria as Statewide Urban Special Transportation Areas.).

(4) Access Management Spacing Standards. Tables 2, 3, 4 and 5, hereby adopted and made a part of this rule, show the access management spacing standards for private and public approaches for the access management classifications listed in section (3) of this rule. [Table not included. See ED. NOTE.]

(5) Management of the location and spacing of traffic signals on state highways shall be in accordance with the rules in OAR 734-020-0400 through 734-020-0500 covering traffic signals. Some private approaches have characteristics of public approaches and may be considered for installation of a traffic signal, as set forth in OAR 734-020-0400 through 734-020-0450, based on the following criteria:

- (a) The approach provides connectivity to the local road system;

- (b) The approach has high traffic volumes, typically 200 vehicles or more during the peak period; and

- (c) Design geometry of the approach is consistent with that of public road intersections, including curbs, appropriate lane widths, and pavement markings and vertical alignments.

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0200

Interchange Access Management Area Spacing Standards for Approaches

(1) It is the policy of the State of Oregon to plan for and manage grade-separated interchange areas to ensure safe and efficient operation between connecting roadways.

(2) These standards do not retroactively apply to interchanges existing prior to adoption of this rule, except or until any redevelopment, change of use, or highway or interchange construction projects, highway or any other roadway project as determined by the Region Manager, such as preservation, safety and operation projects that affect curb placement or sidewalks, which affect these existing interchanges occurs.

(3) It is the goal at the time of any redevelopment, change of use, or highway or interchange construction projects, highway or interchange modernization projects, or any other roadway project as determined by the Region Manager, such as preservation, safety and operation projects that affect curb placement or sidewalks, to meet the appropriate spacing standards, but at the very least, to improve the current conditions by moving in the direction of the spacing standards to approve deviations in those circumstances as part of a project development construction plan or a mitigation plan.

(4) Interchange area management plans. Interchange area management plans describe the roadway network, right-of-way, access control, and land parcels in the analysis area of an existing or planned interchange. An interchange area management plan is required for any new interchange or significant modifications to an existing interchange. Both the Department and local governmental agencies are encouraged to develop interchange area management plans with the goal to protect the function of interchanges by maximizing the capacity of the interchanges for safe movement from the mainline facility, to provide safe and efficient operations between connecting roadways and to minimize the need for major improvements of existing interchanges. Also see Access Management Plans, as set forth in OAR 734-051-0360, and Project Development, as set forth in OAR 734-051-0370. Interchange Area Management Plans:

(a) Should be developed in coordination with the affected local government;

(b) Should be performed in concert with transportation system plans, corridor plans and local comprehensive plans;

(c) Shall be in conformance with transportation system plans, corridor plans and local comprehensive plans;

(d) Should contain short, medium and long-range actions to improve operations and safety in the interchange area;

(e) Should be developed no later than the time the interchange is designed or being redesigned; and

(f) Shall include current and future traffic volumes and flows, roadway geometry, traffic control devices, current and planned land uses and zoning, and the location of all current and planned approaches. The study area shall be sufficient to provide adequate assurance of the safe operation of the facility through the design traffic forecast period, typically 20 years. Interchange area management plans shall contain short, medium and long-range actions to improve operations and attain spacing standards, and such actions shall address roadway improvement actions, including local street network improvements and construction as well as driveway consolidations and shared approaches.

(5) To maximize the operational life and preserve and improve safety of existing interchanges not scheduled for significant improvements, the Department will work with local governments to prioritize the development of interchange area management plans for these interchanges. Priority shall be placed on those facilities on the Interstate system with cross roads carrying high volumes or providing important statewide or regional connectivity. The interchange area management plan shall identify opportunities to improve operations and safety com-

mensurate with the intensity of development, recognizing the importance of maximizing opportunities for improvement when roadway work is contemplated or properties develop or redevelop.

(6) Where interchange area management plans are included in refinement plans and transportation system plans, they shall be consistent with the spacing standards provided in this rule, or with the deviation limits as set forth in OAR 734-051-0340.

(7) The interchange access management spacing standards to be applied to improvement of an existing interchange, construction of a new interchange, or a request for a new approach within the area of an existing interchange are shown in Tables 6, 7, 8, and 9. Tables 6, 7, 8, and 9 and Figures 1, 2, 3, and 4, Measurement of Spacing Standards, are hereby adopted and made a part of this rule. [Table not included. See ED. NOTE.]

(8) As opportunities arise, access rights shall be acquired on crossroads around new and existing interchanges. Whenever possible, this protective acquisition should be for a distance of 1,320 feet (400 meters) on the crossroads.

(9) The Department shall plan for and operate traffic controls within the Interchange Access Management Area with a priority of moving traffic off the main highway, freeway or Expressway and away from the interchange area. Within the Interchange Access Management Area, priority shall be given to operating signals for the safe and efficient operation of the interchange.

(10) Deviations to the interchange access management spacing standards are set forth in OAR 734-051-0320 through 734-051-0340.

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0210

Mitigation Measures

(1) The Department has the authority to require the property owner or applicant to comply with modifications or conditions as mitigation measures to:

(a) Continue operating an existing approach, both those with a Permit to Operate, Maintain and Use an Approach or grandfathered (also see Project Development, as set forth in OAR 734-051-0370 and Closure of Existing Legal Approaches, as set forth in OAR 734-051-0380); or

(b) Construct a new approach. See OAR 734-051-0080, 734-051-0130, 734-051-0140 and 734-051-0320.

(2) The extent of the mitigation measures are based upon the needs of the approach, operation of the highway and the safety of the traveling public (see OAR 734-051-0080(3)).

(3) The mitigation measures may include, but are not limited to:

(a) Modifications to approach size, type and geometry;

(b) Changes to the required on-site storage of queued vehicles entering or exiting the site (throat distance);

(c) Installation of left turn channelization;

(d) Modifications to the left turn storage lane;

(e) Installation of right turn channelization or deceleration lane;

(f) Modifications to maintain intersection sight distance;

(g) Installations of the traffic signals or other traffic control devices where appropriate and consistent with the Oregon Highway Plan, policy, local comprehensive plans and transportation system plans, and as approved by the State Traffic Engineer;

(h) Widening of the highway;

(i) Installation of curbing for delineation of approach roads and drainage;

(j) Consolidation of existing approaches or provision of joint use access;

(k) Closure of an approach(es), (e.g., to improve spacing between approaches);

(l) Construction of raised medians;

(m) Restriction of turn movements at locations and under circumstances that include, but are not limited to:

(A) The proximity of existing approaches or offset of opposing approaches;

(B) Approaches within an Interchange Management Area;

(C) Along a designated Expressway;

(D) Areas of insufficient decision sight distance for speed, path and direction change of vehicles;

(E) The proximity of railroad grade crossings;

(F) Approaches with a crash history involving turning movements;

(G) The functional area of a signalized intersection, in consideration of traffic queues and vehicle storage; and

(H) Areas where highway or approach volumes or turning movements cause safety or traffic operation problems, or degradation of traffic signal system operation;

(n) Installations of sidewalks, bicycle lanes, or transit turnouts;

(o) Development of reasonable alternate access; and

(p) Extension, connection, widening, construction or reconstruction of local streets or roads.

(4) An applicant or property owner may propose and the Region Manager may accept an access management plan, which the applicant or property owner will implement or which local government agrees to implement, as a mitigation measure. The access management plan must maintain the safety of the traveling public pursuant to the criteria in OAR 734-051-0080(3), and the classification of the highway and the highway segment designation of the state highway facility. An access management plan shall:

(a) Address the safety and operational issues of the modification(s) to the access management standards being proposed;

(b) Include a comparison of all alternatives examined;

(c) Include mitigation measures, such as those listed in section (3) of this rule;

(d) Be consistent with the Access Management Policies of the 1999 Oregon Highway Plan;

(e) Include a list of improvements and recommendations necessary to implement the proposed modifications;

(f) Include notice to all property owners within the study area of the access management plan; and

(g) Be prepared by an Oregon Registered Professional Engineer with expertise in traffic.

(5) In making a determination whether additional traffic controls or traffic control devices are reasonably necessary, the Region Traffic Engineer shall:

(a) Inspect the site of the approach;

(b) Investigate the extent and nature of the use of the approach; and

(c) If additional traffic controls appear necessary, recommend to the State Traffic Engineer that additional traffic controls be installed to ensure the safety and convenience of users of the highway and the approach.

(6) The need for additional traffic controls shall be based on current and projected traffic conditions, vehicle speeds, sight distances and road conditions on both the state highway and the approach.

(7) Cost of mitigation is set forth in OAR 734-051-0270.

(8) The Department will work with the local government and affected applicant or permittee to develop mitigation measures and alternative solutions that could include changes to on-site circulation, on-site improvements or modifications to the local street network.

(9) The Department shall provide the applicant or permittee written notice of required modifications or mitigation measures.

(10) All highway improvements within the right of way resulting from mitigation constructed by the permittee, and inspected and accepted by the Department, become the property of the Department.

(11) An applicant or permittee who does not agree to the identified mitigation measures may request Region Review as set forth in OAR 734-051-0390, or may request a hearing as set forth in OAR 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - ORS 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0220

Submittal of Construction Drawings and Plans

(1) The applicant must submit construction drawings and plans for proposed approach(es) to the Region Manager within 30 calendar days of approach application approval, unless the applicant and the Region Manager agree to a longer time period prior to the end of the 30 calendar days.

(2) The time the applicant uses to prepare and submit construction drawings and plans shall fall outside the 120-calendar day limitation on issuance of a Construction Permit.

(3) The Region Manager shall determine the acceptability of construction plans. Upon receipt of acceptable construction drawings and plans by the Department, the Department's action shall fall within the 120-calendar day limitation.

(4) The construction drawings and plans shall include, but are not limited to, the following:

- (a) Grade profile;
- (b) Base and surface design;
- (c) Design for type of approach;
- (d) Erosion control plan for construction;
- (e) Pollution control plan for construction;
- (f) ODOT traffic control devices and/or signs; and
- (g) ODOT traffic control lines and/or striping.

(5) The maximum size, gross weight of vehicles and loads, gross axle weights and types of vehicles using approaches shall be shown on exhibits attached to the construction drawings and plans. The exhibit(s) shall include diagrams showing type of truck and trailer combinations, maximum width and overall length, distance between axles, maximum axle weights, and size and number of tires per axle.

(6) Structural details of grade-separated structures shall be included in the construction drawings and plans, as required.

(7) Upon request by the Region Manager, the applicant shall, at the applicant's sole expense, supply an operated test vehicle of the type and dimension to be used at the proposed approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.315 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0230

Issuance of Construction Permits

(1) A Construction Permit may not be issued until construction plans or other specified documents are completed. Construction plans or documents shall receive the approval of the Region Manager prior to proceeding with any construction within the highway right of way.

(2) The Department may deny the Construction Permit if the required special conditions are not accepted by the applicant. In determining special conditions the Department may refer to other rules, the Oregon Revised Statutes, and local adopted comprehensive plans, zoning requirements and local rules applicable to developments.

(3) The conditions or agreements that were identified and approved through the application process as set forth in OAR 734-051-0130 and 734-051-0140 shall be included in the Construction Permit.

(4) The Department may issue the Construction Permit as proposed or require special conditions, such as, but not limited to:

- (a) Vegetation control;
- (b) Landscaping;
- (c) Set backs;
- (d) Limitation on the volume, type or schedule of vehicles using the approach;
- (e) Utility easements;
- (f) Donation of additional right of way; and
- (g) Mitigation as set forth in OAR 734-051-0210.

(5) If the Department approves the approach application and the construction plans:

(a) The Department shall prepare and transmit a Construction Permit to the applicant for signature;

(b) The applicant shall sign the Construction Permit if the terms and conditions are acceptable; and

(c) The applicant shall return the entire original Construction Permit with proof of liability insurance and any required bond or deposit in lieu of bond, as set forth in OAR 734-051-0280(7), to the Department and at the address noted.

(6) After receiving the signed Construction Permit from the applicant, the Department shall assign a number to the Construction Permit, sign the Construction Permit, and return a copy of the Construction Permit to the applicant within 15 calendar days.

(7) If the Department has not received the signed copy of the Construction Permit from the applicant within 60 calendar days of the date of transmittal, as noted on the Construction Permit, the approval shall be considered expired.

(8) If the applicant does not agree to all the terms and conditions of the Construction Permit, the applicant must appeal the terms and

conditions, as set forth in OAR 734-051-0390 and 734-051-0400, within 21 calendar days of the date of mailing of the transmittal.

(9) Where this rule requires the signature of the applicant, such signature(s) shall be that of the specific individual, or if a corporation the duly authorized officer of the corporation or partnership. If the applicant is other than the owner of the property to be served, then the applicant shall include written evidence of concurrence in the Construction Permit by the owner. The name of the corporation shall be included with the signature. Any corporation or limited partnership must be licensed to do business in Oregon, and as set forth in ORS 60.111, each corporation shall continuously maintain in this state a registered agent and registered office.

(10) The issue date of the Construction Permit is the date the Region Manager signs the Construction Permit:

(a) No Construction Permit is valid until a copy, approved and signed by the Region Manager, has been furnished to the applicant; and

(b) No work on highway right of way is to be started until the applicant obtains a valid Construction Permit.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL
Stats. Implemented: ORS 374.310 - ORS 374.315 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0235

Post-Decision Review Procedure

(1) Post-decision reviews may change decisions without necessarily subjecting the change to the same procedure as the original decision on an application or Construction Permit. Such changes may be warranted by ambiguities or conflicts in a decision or by new or more detailed information, by requirements of permits of local government or state agencies, of other applicable laws.

(2) Post-decision reviews can be conducted only with regard to a decision that approves or conditionally approves an application or a Construction Permit. An application that is denied is not eligible for post-decision review.

(3) Pursuant to sections (1) and (2) of this rule, an applicant or permittee may file with the Department an application for post-decision review, describing the nature of the proposed change to the decision and the basis for that change, including all applicable facts and law.

(4) The Region Manager shall make the final determination of whether sufficiency of the specific information provided in the application for post-decision review is complete:

(a) The Department shall not require an application for post-decision review to contain information that is not relevant and necessary to address the requested change or the facts and law on which it is based;

(b) Post-decision review cannot substantially change the nature of an approach(es) or any mitigation proposed pursuant to a given decision on an application or Construction Permit;

(c) As part of a determination of completeness of an application for post-decision review, the Region Manager may determine that a post-decision review is inappropriate and a new application for an approach(es) must be filed; and

(d) An applicant or permittee who does not agree to the determination of the Region Manager regarding the post-decision review may request Region Review as set forth in OAR 734-051-0390, or may request a hearing as set forth in OAR 734-051-0400.

(5) The determination on the post-decision review shall be made as expeditiously as reasonably possible.

(6) An application for post-decision review does not extend the deadline for filing an appeal of the decision being reviewed and does not stay appeal proceedings.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL
Stats. Implemented: ORS 374.310 - ORS 374.315 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0240

Effective Period of Construction Permits

(1) If the applicant fails to complete installation of the approach covered by the Construction Permit within the period specified in the Construction Permit, the Construction Permit shall be deemed null and void and all privileges thereunder forfeited, unless a written extension of time is approved by the Region Manager prior to the specified completion date.

(2) Failure of the applicant to comply with any of the terms and conditions of the Construction Permit shall be sufficient cause for:

(a) Reconstruction or repair of the approach by the Department at the applicant's expense in accordance with the rules and regulations and the conditions of the permit as provided in ORS 374.320; or

(b) Cancellation of the Construction Permit and may result in removal of the approach by the Department at the applicant's expense as provided in ORS 374.320.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.315 - ORS 374.320 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0250

Construction of Approaches

(1) The applicant or the applicant's contractor shall advise the Region Manager at least 48 hours in advance of commencing construction an approach approved by a Construction Permit.

(2) Construction of the approach shall conform to the terms of the Construction Permit including the Special Provisions of the Construction Permit and exhibits attached to the Construction Permit. Also see OAR 734-051-0280 for applicant liability and control during construction of approaches.

(3) The applicant shall notify the Region Manager when construction of the approach has been completed. The Region Manager shall inspect the completed approach and advise the applicant in writing whether or not the approach has been constructed in a satisfactory manner. The applicant shall promptly correct any deficiencies within the timeline set forth by the Region Manager. Also see OAR 734-051-0290(2) regarding inspection of approaches.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.315 & Ch. 974, OL 1999

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0040

734-051-0260

Design of Approaches

(1) Approaches shall be designed to allow movement to and from the highway of the vehicles which can reasonably be expected to utilize the approach without undue conflict with other traffic.

(2) The type and design of all approaches shall conform to Department standards contained in the 1996 Oregon Highway Design Manual.

(3) Design and construction of some approaches may require modifications to the approach and/or the highway as set forth in OAR 734-051-0210.

(a) With the Region Manager's approval, approaches and improvements other than signalization (see OAR 734-020-0400 through 734-020-0500 for signalization) may be constructed by the applicant in accordance with the plans and specifications approved by the Region Manager; and

(b) Approaches serving large volumes of traffic may require substantial mitigation. When this type of approach is required, the Department or the applicant may construct the entire approach and installation of any additional mitigated improvements, in accordance with the plans and specifications approved by the Department, at the applicant's expense.

(4) The applicant may be required to construct curbing along its frontage, base and pave the area between the existing highway pavement and the curbing, and install necessary drainage facilities as a part of the approach when said approach is to a high traffic volume section of a highway in an urban area. In other areas, the applicant may be required to construct curbing, guardrail, ditches or plantings limiting the approach to the abutting property to the distances designated in the Construction Permit.

(5) The planting or placing of adornments not prohibited by law on the right of way by the applicant shall be limited to low growing shrubs, grass, or flowers that do not attain sufficient height to obstruct clear vision in any direction, unless the applicant has obtained the approval of the Region Manager. Also, no curbs, posts, signs or other structures shall be placed on the highway right of way unless the applicant has obtained the approval of the Region Manager.

(6) Construction Permits for approaches serving large buildings and/or paved areas may include provisions for storm drain facilities connecting to the highway drainage system. If, in the judgment of the Region Manager, the highway system is adequate to handle the

accelerated run-off, the applicant shall make suitable provisions to prevent surface run-off from the paved areas into the highway drainage system. Storm drain facilities shall be designed to minimize the rate and volume of storm water to the maximum extent practicable to reduce the Department's liability. All costs for providing drainage from the property shall be borne by the applicant.

(7) Approaches that are private crossings shall be made by grade separation unless separation is determined by the Technical Services Manager to be economically impracticable:

(a) If a grade separation is not required, the applicant shall install any such signing, signalization (as set forth in OAR 734-020-0400 through 734-020-0500), or combination of traffic safety devices as may be determined necessary by the Technical Services Manager. When these facilities are required, the Department may construct the entire approach and additional facilities in accordance with the plans and specifications approved by the Department; or

(b) If the additional facilities are other than signalization, the Region Manager may authorize the applicant to install the approach and additional facilities in accordance with plans and specifications approved by the Region Manager, if in the judgment of the Region Manager the applicant can install the approach and additional facilities adequately and safely.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.315 & Ch. 974, OL 1999

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0035

734-051-0270

Allocation of Costs for Construction and Maintenance of Approaches

(1) The entire expense of constructing the approach or installing mitigation measures shall be borne by the applicant. This shall include the cost of all materials, labor, signing, signals, structures, equipment, traffic channelization and other permit or mitigation requirements.

(2) Costs of any items, or portion thereof, described under section (1) of this rule may become the responsibility of the Department provided they are a part of the terms and conditions of a right of way acquisition obligation or other contractual agreement.

(3) In the event construction, reconstruction, modernization, preservation or operations projects, such as widening, of any highway requires the removal, alteration or reconstruction of an approach constructed under authority of a Construction Permit or in the case of a grandfathered approach, the cost of such removal or replacement to a like width and condition shall be borne by the Department. Any widening or other improvement of the approach at the applicant's request shall be done only under authority of a new Construction Permit and at the expense of the applicant.

(4) The cost of maintenance of the approach from the outside edge of the highway pavement, shoulder or curb line to the right of way line, and any portion of the approach on the applicant's property required to be maintained as part of the permit, shall be the responsibility of the applicant.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.315 & Ch. 974, OL 1999

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0020

734-051-0280

Liability and Control for Construction and Maintenance, Repair, Operation and Use of Approaches

(1) The applicant shall:

(a) Be responsible and liable for all damage or injury to any person or property resulting from the construction or maintenance, repair, operation or use of the approach for which the applicant has been issued a Construction Permit or a Permit to Operate, Maintain and Use an Approach and for which the applicant may be legally liable; and

(b) Indemnify and hold harmless the State of Oregon, the Commission, the Department, and all officers, employees or agents of the Department against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct or operation of the applicant, his agents or employees in connection with the construction, maintenance, repair, operation or use of said approach.

(2) The applicant or the applicant's contractor shall during the period that an approach is being constructed, in order to assure responsibility under section (1) of this rule, file with the Department evidence of insurance in the following minimum amounts:

(a) \$50,000 for property damage resulting from any single occurrence, or \$500,000 combined single limit; and

(b) \$200,000 for the death or injury of any person, subject to a limit of \$500,000 for any single occurrence.

(3) Said insurance policy or policies shall include as named insureds the State of Oregon, the Commission, the Department, its officers, agents and employees, except as to claims against the applicant, for personal injury to any members of the Commission, Department, or its officers, agents, and employees or damage to any of its or their property.

(4) A copy of the insurance policy, or a certificate showing evidence of insurance, shall be filed with the Department prior to commencement of any work.

(5) Notice of Cancellation or Change. There shall be no cancellation or intent not to renew insurance coverage(s) without 30 days written notice from the applicant, contractor or the insurer(s) to the Department. Any failure to comply with the reporting provisions of this insurance shall not affect the coverage(s) provided to the State of Oregon, Department of Transportation and its divisions, officers and employees.

(6) If the highway surface or highway facilities are damaged by the applicant or the applicant's contractor, the applicant shall replace or restore the highway or highway facilities to a condition satisfactory to the Region Manager.

(7) The applicant or the applicant's contractors shall furnish for the period of time necessary to install an approach and to ensure that any damage to the highway has been corrected to the satisfaction of the Region Manager, a cash deposit or a bond in the amount specified by the Region Manager, issued by a surety company licensed to do business in the State of Oregon. No work shall be performed until the deposit or bond has been filed with the Department.

(8) The applicant shall be responsible for relocating or adjusting any utilities located on highway right of way as required to accommodate the approach. Construction of the approach by the applicant, or the applicant's agent or contractor, will be allowed only after the applicant has furnished the Region Manager evidence that satisfactory arrangements for said location or adjustment have been made with the owner of the affected utility facility.

(9) The applicant shall be responsible for erosion control during construction of the approach.

(10) No unauthorized signs shall be allowed upon any portion of the right of way. Where standard warning signs such as "Trucks" are required by the Construction Permit or other regulations, or are ordered by the Region Manager to provide warning of the approach, such signs shall be furnished, placed and maintained by the Department at the expense of the applicant.

(11) The work area during any construction or maintenance performed under the provisions of the Construction Permit or the Permit to Operate, Maintain and Use an Approach shall be protected in accordance with the "Manual on Uniform Traffic Control Devices" as adopted by the Department under OAR 734-020-0005.

(12) The applicant shall be solely responsible for providing correct and complete information as may be required by the application form or the Region Manager. If the Region Manager determines that any fact required of the applicant which is material to the assessment of the approach's impact upon traffic safety, convenience or the legal or property rights of any person (including the State of Oregon) is false, incorrect or omitted, the Region Manager may:

(a) Deny or revoke the Construction Permit;

(b) Require the applicant to remove the approach and restore the area to a condition acceptable to the Region Manager at the applicant's expense; or

(c) Require the applicant to provide, at the applicant's expense, any additional safeguards or facilities required to protect the safety, convenience and rights of the traveling public and persons (including the State), if such additional requirements are adequate to achieve these purposes, as a condition of the continued validity of the Permit to Operate, Maintain and Use an Approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 - ORS 374.315 & Ch. 974, OL 1999

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 724-050-0025

734-051-0290

Issuance of a Permit to Operate, Maintain and Use an Approach

(1) An approach can be legally used only after a Permit to Operate, Maintain and Use an Approach has been issued.

(2) Upon completion of construction of an approach, the Region Manager shall inspect the constructed approach:

(a) If the approach has been constructed in conformance with all the terms and conditions of the Construction Permit, as set forth in OAR 734-051-0230, the Region Manager shall issue and transmit a valid Permit to Operate, Maintain and Use an Approach; or

(b) If the approach has not been constructed in conformance with all the terms and conditions of the Construction Permit, the Region Manager shall provide the applicant a list of all specific deficiencies, in a written notice, that must be satisfactorily corrected before a Permit to Operate, Maintain and Use an Approach can be issued:

(A) If the applicant does not agree with the list of deficiencies provided by the Region Manager, the applicant must appeal within 21 calendar days of the date of mailing of the written notice. If no appeal is filed, then it is assumed that the applicant agrees with the list of deficiencies and will correct all specified deficiencies;

(B) The applicant shall have 60 calendar days, or longer if both the Department and the applicant agree prior to the end of the 60 calendar days, to correct the deficiencies specified in the written notice; and

(C) The Region Manager shall re-inspect the approach at the applicant's request or at the end of 60 calendar days, whichever comes first:

(i) If all the deficiencies specified in the written notice have been satisfactorily corrected, the Region Manager shall issue and transmit a Permit to Operate, Maintain and Use an approach; or

(ii) If all the deficiencies specified in the written notice have not been satisfactorily corrected:

(I) The Department may reconstruct or repair the approach at the applicant's expense in accordance with the rules and regulations and the conditions of the permit as provided in ORS 374.320; or

(II) The Region Manager shall revoke the Construction Permit and close the approach, which may result in removal of the approach by the Department at the applicant's expense as provided in ORS 374.320.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310, 374.320 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0300

Effective Period of Permit to Operate, Maintain and Use an Approach

(1) Except as otherwise provided in the Special Provisions, a Permit to Operate, Maintain and Use an Approach shall be in effect for an indefinite period of time from the date of issue of the Permit to Operate, Maintain and Use an Approach, unless:

(a) Sooner revoked by mutual consent, or by the Region Manager for failure of the applicant to abide by the terms and conditions of the Permit to Operate, Maintain and Use an Approach;

(b) There is a change in use of the approach, as set forth in OAR 734-051-0110;

(c) There is a significant increase in the volume of traffic using the approach, a change in the character of the traffic using the approach, or a change in the highway facility such that the approach can no longer be operated without undue conflict with other traffic, as set forth in OAR 734-051-0380;

(d) The highway facility is significantly improved to meet classification of the highway and the highway segment designation objectives, highway mobility standards, spacing standards and safety criteria that are inconsistent with the approach; or

(e) By other operation of law.

(2) The Permit to Operate, Maintain and Use an Approach, the privileges stated therein and the obligations of the applicant thereby shall be binding upon the successors and assigns of the applicant, including successors in interest to the property being served by the approach.

(3) The operation, maintenance and use of an approach is subject to the control of the legislature over the state highway system. The Permit to Operate, Maintain and Use an Approach shall not be deemed or construed to be beyond the power or authority of the legislature to control the state highway system. The applicant in accepting the Permit to Operate, Maintain and Use an Approach acknowledges that the rights and privileges may be changed or relinquished by legislative action.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
 Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0050

734-051-0310

Maintenance of Approaches

(1) Prior to performing any maintenance work on an approach which will interfere with or interrupt traffic upon or along the highway, the applicant shall obtain prior approval and any necessary permits, from the Region Manager.

(2) The applicant may perform minor maintenance work on an approach, in the area from the outside edge of the highway shoulder or curb line to the right of way line (see OAR 734-051-0270(4)), which does not interfere with traffic upon the highway without obtaining approval from the Region Manager.

(3) In all cases where traffic signals have been required, all signal maintenance will be performed by the Department, or its agent, at no cost to the applicant unless the Special Provisions in the Permit to Operate, Maintain and Use an Approach require the applicant to bear the cost of signal maintenance, and the Department has entered into a traffic control device maintenance agreement with the applicant. On approaches that are private road crossings, if the signal is damaged or destroyed by the applicant or a third party, the applicant shall bear the cost of repair or replacement over and above any amount which may be recovered from such third party by the Department.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 374.315 & Ch. 974, OL 1999
 Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0045

734-051-0320

Requests for Deviations to Access Management Standards

(1) Pursuant to OAR 734-051-0050 (General Policy), the Department shall manage access to the highway facilities of the state to the degree necessary to maintain functional use, highway safety, and the preservation of public investment consistent with the 1999 Oregon Highway Plan and adopted local comprehensive plans. Notwithstanding the above, it is the policy of the State of Oregon to allow deviations from adopted access spacing standards when circumstances make allowing a deviation necessary and the deviation is compatible with safe and efficient operation of state highways.

(2) A deviation may be requested when an application does not meet the access management standards, and the criteria for safety set forth in OAR 734-051-0080(3), is not compromised:

(a) The request for a minor deviation shall be included as part of the initial application for an approach, as set forth in OAR 734-051-0130; and

(b) The request for a major deviation shall be included as part of the supplemental documentation required to complete the application process, as set forth in OAR 734-051-0140. Additional documentation, including but not limited to the following, also may be required:

(A) A Transportation Impact Study, as set forth in OAR 734-051-0180, to demonstrate how long-term safety and operational impacts can be adequately mitigated; and

(B) An Access Management Plan, as set forth in OAR 734-051-0210(4), and approved by the Department, that outlines long-term access management objectives, standards, and processes necessary to obtain the objectives.

(3) A request for either a minor or major deviation shall be approved by the Region Manager when the deviation would allow an approach to a parcel that has an existing right of access, but would be landlocked by denial of a Permit to Operate, Maintain and Use an Approach, as long as an approach can be allowed without causing any significant safety or traffic operation problems.

(4) A request for a minor deviation shall be approved by the Region Manager, and a request for a major deviation may be approved by the Region Manager, where the deviation would not result in significant safety or traffic operation problems, and if one or more of the following conditions exist:

(a) Strict application of the access management standards would result in a safety or traffic operation problem;

(b) Existing public approaches cannot be moved due to excessive cost, topography, or environmental concerns;

(c) Where the applicant provides joint access serving two or more properties or has shown efforts to work with adjacent property owners to improve existing conditions and shows that existing private approaches cannot be closed, relocated, or shared due to existing development patterns, topography or lack of existing alternate roadway system;

(d) Where the applicant has shown efforts to work with adjacent property owners to improve existing conditions and shows that existing development patterns or land holdings make it impossible to meet the spacing standards;

(e) Establishing an alternate roadway system is not practical or cost effective;

(f) The proposed deviation results from the existence of unrelatable control points such as bridges, waterways, parks, historic or archaeological areas, cemeteries, or other unique natural features;

(g) The proposed deviation improves traffic safety or operations; or

(h) Any other conditions deemed appropriate by the Region Manager.

(5) In approving a request for deviation, the applicant may propose and the Region Manager may approve, or the Region Manager may propose and require one or more mitigation measures as set forth in OAR 734-051-0210.

(6) A request for either a minor or major deviation shall not be approved by the Region Manager under the following conditions:

(a) The access management standards can be met and application of the standards would not result in a safety or traffic operation problem, but the result would be higher site development costs;

(b) Options for meeting access management standards have not been considered or addressed;

(c) The deviation is requested because of a hardship which is self created, including:

(A) Conditions created by the proposed building footprint or location, or on-site parking or circulation; or

(B) Conditions created by the owner's lease arrangements or other voluntary legal obligations; or

(d) The proposed deviation would result in significant safety or traffic operation problems.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
 Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0330

Processing Requests for Deviations

(1) The Region Manager shall review and make a determination to approve or deny all requests for deviations from access management standards.

(2) Use of a Technical Advisory Committee:

(a) The Region Manager may enlist the aid of a Technical Advisory Committee to review submitted documentation of a request for a minor deviation;

(b) The Region Manager shall enlist the aid of a Technical Advisory Committee to review submitted documentation of a request for a major deviation; and

(c) Members of the Technical Advisory Committee shall have expertise in access management policies and roadway design standards, shall include at least one Oregon Registered Professional Engineer with expertise in traffic, and may include central office personnel with access management experience for statewide consistency, and technical persons who are not Department employees (i.e., city or county technical staff, or private consultants).

(3) All determinations by the Region Manager shall be documented with written findings and can require conditions, limitations, or mitigation, according to the provisions of OAR 734-051-0210. All specific limitations or conditions shall be incorporated into the con-

ditions of the Construction Permit and the Permit to Operate, Maintain and Use an Approach, as appropriate.

(4) Denial of a deviation request may be appealed, as a part of the appeal on the whole application, through the appeal process set forth in OAR 734-051-0390 or 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0340

Deviation Limits for Spacing of Approaches within an Interchange Access Management Area

(1) Deviation requests for new approaches within an Interchange Access Management Area shall be:

(a) Major deviations; or

(b) Minor deviations, only if the request includes combining or closing other approaches in a plan to work towards meeting spacing standards.

(2) Deviation requests for modifications to existing approaches shall be minor deviations.

(3) Both sections (1) and (2) of this rule may require mitigation, as set forth in OAR 734-051-0210, as a condition of deviation approval.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0350

Minor Deviation Limits for Approach Spacing

The Access Management Spacing Standard Minor Deviation Limits for both private and public approaches for the access management classifications set forth in OAR 734-051-0190 are shown in Tables 10, 11, 12, 13, 14 and 15 hereby adopted and made a part of this rule. [Table not included. See ED. NOTE.]

Any request to deviate beyond these limits is considered a major deviation. The Access Management Spacing Standards for both private and public approaches are shown in Tables 2, 3, 4 and 5 adopted in OAR 734-051-0190. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0360

Access Management Plans

(1) The Department shall encourage the development of highway segment access management plans in the situations listed in subsections (a) through (c) of this section. Independent of a specific application, local government or an applicant can request the creation of an access management plan. Priority will be placed on those facilities with high volumes or providing important statewide or regional connectivity:

(a) Where existing developments do not meet spacing standards;

(b) Existing development patterns, land ownership patterns, and land use plans are likely to result in requests for deviations; or

(c) An access management plan would preserve or enhance the safe and efficient operation of a state highway.

(2) Access management plans prepared pursuant to this rule shall:

(a) Be prepared for a logical segment of the state highway and include sufficient surrounding area to address highway operation and safety issues, and development of adjoining properties including local access and circulation;

(b) Include local governments and property owners in the affected area;

(c) Be developed in coordination with the local government;

(d) Be consistent with and implement the adopted Transportation System Plan (TSP) for the area or propose amendments to the TSP; and

(e) Consider including planning for local streets.

(3) Access management plans prepared pursuant to this rule shall be designed to accomplish the following:

(a) Promote safe and efficient operation of the state highway consistent with the highway classification and the highway segment designation;

(b) Provide for reasonable use of the adjoining property consistent with the comprehensive plan designation and zoning of the area; and

(c) Provide a comprehensive, area-wide solution for local access and circulation that minimizes use of the state highway for local access and circulation.

(4) The Department and local government may develop specific access management plans for portions of state highways and these plans are encouraged in areas where critical access management issues are occurring or may occur:

(a) Access management plans should be performed in concert with applicable corridor plans, or transportation system plans, or STA or UBA designation;

(b) Access management plans shall be in conformance with corridor plans, transportation system plans and the local comprehensive plan; and

(c) This process shall include specific notification to affected property owners and general notice to the public.

(5) An access management plan provides guidance to both the Department and local government for bringing the roadway and approaches to the roadway into conformance with the appropriate access management standards and criteria based on the classification of the highway and the highway segment designations.

(6) Access management plans should contain a range of short, medium, and long-range actions that can be applied on both the traveled way and approaches as roadway improvements are made or land use changes occur.

(7) More specific access management plans also can be developed, such as access management plans included in an Interchange Area Management Plan, as contained in OAR 734-051-0200.

(8) If the access management plan is approved by the Department through an intergovernmental agreement (IGA) and adopted by local government, it becomes the standard against which development proposals are evaluated.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0370

Project Development

(1) This rule applies to the construction of all new highways and interchanges, all highway or interchange modernization projects, or any other roadway or interchange project as determined by the Region Manager, such as preservation, safety and operation projects that affect curb placement or sidewalks.

(2) Supporting improvements, such as road networks, channelization, medians and access control must be consistent with the Access Management Policies in the 1999 Oregon Highway Plan.

(3) The following apply to mitigation, modification or closure of approaches for project development:

(a) Where the Department develops a highway project as described in section (1) of this rule, the Region Manager may review all approaches within the project limits and may mitigate as set forth in OAR 734-051-0210, modify or close approaches as set forth in OAR 734-051-0270 and 734-051-0380(4) if necessary to meet the classification of the highway and the highway segment objectives, highway mobility standards, spacing standards, and safety criteria (as set forth in OAR 734-051-0080(3));

(b) In developing a highway project, the Region Manager shall mitigate, modify or close approaches pursuant to an adopted access management plan or interchange area management plan that is approved by the Department. Justification for not adhering to the adopted access management plan objectives includes, but is not limited to a change of circumstances since the adoption of the plan;

(c) In absence of an adopted access management plan or interchange area management plan approved by the Department, the Region Manager, when reviewing private approach spacing shall consider:

(A) Mitigation or modification of approaches;

(B) Closing approaches to those parcels with multiple approaches; and

(C) Closing approaches to parcels with alternative access to adjacent streets.

(d) Where the approaches within a project cannot meet the classification of the highway and the highway segment designation

objectives, highway mobility standards, spacing standards and safety criteria, the Region Manager must document the reasons for any deviation and report those documented reasons to the Deputy Executive Director and the Executive Director of the Transportation Development Division.

(4) The following applies to improvement of an existing interchange or construction of a new interchange:

(a) Necessary supporting improvements, such as road networks, channelization, medians and access control in the interchange management area must be identified in the local comprehensive plan and committed with an identified funding source or in place;

(b) Approaches to cross streets shall be consistent with established standards for a distance on either side of the ramp connections so as to reduce conflicts and manage ramp operations. The Interchange Access Management Spacing Standards supercede the Access Management Classification and Spacing Standards, as set forth in OAR 734-051-0190, unless the latter distance standards are greater;

(c) Where possible, interchanges on Freeways and Expressways shall connect to state highways, major or minor arterials;

(d) Interchanges on Statewide, Regional or District Highways may connect to state highways, major or minor arterials, other county or city roads, or private roads, as appropriate; and

(e) The design of interchanges must consider the need for transit and park-and-ride facilities, along with the interchange's effect on pedestrian and bicycle traffic.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0380

Closure of Existing Legal Approaches

(1) If, at any time after a Permit to Operate, Maintain and Use an Approach has been issued or in the case of a grandfathered approach, there is a current or potential safety or operational problem at the approach, which is verified by an engineering analysis, involving the volume of traffic using the approach, a change in the character of the traffic using the approach, or a change in the highway facility (including, but not limited to the addition of a right or left turn lane or additional travel lanes), and it is determined by the Region Manager that the approach can no longer be operated without undue conflict with other traffic, the Permit to Operate, Maintain and Use an Approach may be revoked and the approach closed as necessary for the safety of the traveling public as long as alternative reasonable access is available.

(2) Failure of the applicant to comply with any of the terms and conditions of the Permit to Operate, Maintain and Use an Approach shall be sufficient cause for cancellation of the Permit to Operate, Maintain and Use an Approach and may result in removal of the approach by the Department at the applicant's expense as provided in ORS 374.320.

(3) If, at any time after a Permit to Operate, Maintain and Use an Approach has been issued or in the case of a grandfathered approach, the Department constructs a project to modernize, or significantly improve, an existing facility or constructs a new highway facility, the Region Manager shall review Permits to Operate, Maintain and Use an Approach and may close approaches if necessary to meet the highway classification designation objectives, highway mobility standards, spacing standards or minor deviation limits, and safety criteria (as set forth in OAR 734-051-0080(3)). The review for closure of approaches during project development is addressed in OAR 734-051-0370.

(4) The cost of closing an approach is to be borne by the owner, except in those circumstances covered in OAR 734-051-0370 related to project development, where the cost shall be allocated pursuant to OAR 734-051-0270.

(5) Short of closure, the Region Manager may determine that the approach may remain open if appropriate mitigation measures are taken. If so:

(a) The Department shall provide the property owner or lessee written notification of the intent to close the approach unless specific mitigation measures are taken. Possible mitigation measures are set forth in OAR 734-051-0210; and

(b) The Department will work with the local government and affected property owner to develop alternative solutions that may

involve changes to on-site circulation and improvements or modifications to the local street network. (See Mitigation Measures as set forth in OAR 734-051-0210.)

(6) If the property owner or lessee agrees to the mitigation in situations not covered by OAR 734-051-0270, or absent agreement with ODOT or other contiguous owners on the issue of pro rata payment based on those conflicts directly created by the approach, at owner's option he or she shall either:

(a) Construct such additional improved traffic controls as required by the Department at the property owner's or lessee's full or pro rata expense, and within the timeframe outlined by the Department; or

(b) Reimburse the Department for the entire or pro rata cost of designing, constructing or installing such additional improved traffic controls.

(7) If it is a lessee of real property serviced by the approach, the lessee shall provide evidence of compliance with the additional traffic controls by the owner, including identifying the responsibility for construction or installing additional traffic controls during and after the effective period of the lease.

(8) If the property owner or lessee does not agree to the identified mitigation measures, or if the Region Manager determines that mitigation measures will not allow the approach to be operated without undue conflict with other traffic, the Department shall provide the property owner written notification of the intent to close the approach. The notification shall include information on the property owner's right to request region review or a hearing as provided by the Administrative Procedures Act (ORS Chapter 183).

(9) If the property owner wishes to request a hearing without going to Region Review or after Region Review on the issue of closure, mitigation or payment, the property owner may do so through the procedures, in accordance with the hearings process for contested cases, as set forth in OAR 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - ORS 374.320 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0390

Region Review Process and Collaborative Discussion Option

The following is an optional process which falls outside the 120-calendar day limitation on approval of an application for an approach or issuance of a Construction Permit:

(1) The Region Review process applies to appeals of any action on an application, Construction Permit, or Permit to Operate, Maintain and Use an Approach which is unsatisfactory to the applicant or permittee such as, but not limited to, appeals of denied applications, including denied deviation requests, closure of existing approaches, or appeals of conditions or terms included as part of a Construction Permit.

(2) The request for a Region Review is made by the applicant or permittee.

(3) The request for a Region Review shall:

(a) Be filed in writing within 21 calendar days of the date of mailing of the written notice outlining the action taken; and

(b) Include documentation that will be relied upon during the Region Review. Such documentation shall be submitted in writing to the Region Manager's Office.

(4) The Region Manager shall establish a Region Review Committee to include members with expertise in access management policies, roadway design standards, right-of-way, and traffic engineering to make a recommendation to the Region Manager regarding appeals:

(a) The Region Review Committee cannot include any members of the Technical Advisory Committee advising on the approval or denial of a deviation;

(b) The Region Review Committee shall include an Oregon Registered Professional Engineer from the central office of ODOT with experience germane to the issues on appeal if the appealed action involved a major deviation; and

(c) The Region Manager shall invite and the Region Review Committee shall receive input from a government representative with land use and/or transportation knowledge from the affected local jurisdiction.

(5) The applicant or permittee may present additional information or evidence in writing or in person at the Region Review.

(6) The Region Manager shall review the Region Review Committee's recommendation and all additional information, and make a determination to approve, reverse, or modify the original application, Construction Permit action or closure of existing approach:

- (a) The determination shall be documented in writing;
- (b) The determination may require conditions or limitations; and

(c) All specific limitations or conditions shall be incorporated into a subsequent Construction Permit or Permit to Operate, Maintain and Use an Approach.

(7) A request for a collaborative discussion may be made by the applicant or permittee within the Region Review process outlined in sections (1) through (6) of this rule. The collaborative discussion is optional and both the applicant or permittee and the Department agree to the collaborative discussion:

(a) Collaborative discussions shall be conducted as represented in the Alternative Dispute Resolution model in ORS 183.502;

(b) Collaborative discussions fall outside the 120-calendar day limitation on approval of an approach or issuance of a Construction Permit;

(c) The Agreement to Collaborate will include a time limit of 45 days, or longer if both the Department and the applicant or permittee agree, during which the collaborative discussion shall take place;

(d) The Region Manager shall be the Department's final agreement authority, and shall be able to make a binding decision for the Department during the collaborative discussion; and

(e) The agreement to approve, reverse, or modify the appealed action as agreed to by both parties during the collaborative discussion:

- (A) Shall be documented in writing;
- (B) May require conditions or limitations; and
- (C) All specific limitations or conditions shall be incorporated

into a subsequent Construction Permit or Permit to Operate, Maintain and Use an Approach.

(8) Upon conclusion of the Region Review, any subsequent appeal shall be on the original action and shall be through a contested case hearing, which will fall within the 120-calendar day limitation on approval of an approach or issuance of a Construction Permit.

(9) If the Region Review or collaborative discussion does not result in agreement, the Department shall provide written notification to the applicant or permittee within 10 calendar days of the conclusion of the Region Review or collaborative discussion, including information on the applicant's or permittee's rights to request a hearing as provided by the Administrative Procedure Act (ORS Chapter 183).

(10) If the applicant or permittee wishes to request a hearing, the applicant or permittee may do so through the procedures, in accordance with the hearings process for contested cases, as set forth in OAR 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 183.090, 183.502, 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0400

Hearing Procedures

(1) When an applicant or a permittee requests a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) the following procedure shall be followed:

(a) The request for a hearing and the hearing itself is governed by OAR 137-003-0501 to 137-003-0700;

(b) The request for a hearing should be filed on a standard state form or a letter containing the information requested in the standard form or otherwise evidencing an intent to request a hearing. That request for hearing form or letter must be received by the Hearing Officer Panel, ODOT Section, within 21 calendar days of the date of mailing to the permittee or applicant of the written notification by the Region Manager as set forth in OAR 137-003-0505; and

(c) Upon receipt by the Hearing Officer Panel, ODOT Section, of a request for a hearing, the remainder of the hearings process shall fall within the 120-calendar day limitation on approval of an application for an approach or on issuance of a Construction Permit, as applicable, unless the Department and the applicant agree to an extension prior to the end of the 120-calendar day limitation:

(A) Sixty calendar days are required to schedule and hold a hearing, and to produce a proposed order and final order. Any exten-

sions agreed to between the Department and the applicant at the time of hearing shall fall outside the 120-calendar day limitation; and

(B) Filing of exceptions shall fall outside the 120-calendar day limitation.

(2) The request for a hearing shall be submitted to the Hearing Officer Panel, ODOT Section.

(3) The Department may be represented at an access management contested case hearing by an officer or employee of the Department subject to the Attorney General's consent to that representation.

(4) The applicant may present additional information in writing or in person at the hearing.

(5) An Administrative Law Judge will review the Region Manager's determination, conduct a hearing and make a determination to approve, reverse, or modify the Region Manager's decision:

(a) The determination shall be documented with written findings and a proposed order will be issued;

(b) The determination may require conditions or limitations; and

(c) All specific limitations or conditions shall be incorporated into the conditions of the Construction Permit or the Permit to Operate, Maintain and Use an Approach.

(6) The Executive Deputy Director shall issue a final order or adopt the proposed order as final.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 183.090, 183.413-490, 374.305 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0410

Scope for Modification of Access Rights

OAR 734-051-0410 through 734-051-0470 shall govern the modification of access rights to state highways and other public roads from property where the Department has access control. These rules also govern modification of access rights to state highways from property owned or controlled by cities or counties where the Department has access control where a public road connection is requested.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0420

General Policy for Modification of Access Rights

It is the policy of the Oregon Department of Transportation to manage access to the highway facilities of the state to the degree necessary to maintain functional use, highway safety, and the preservation of public investment. The Department recognizes that access control management varies for each classification of the highways and the highway segment designations of the highways.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
Hist.: 1 OTC 19-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0075

734-051-0430

Grants of Access

(1) The effect of a grant of access. A grant of access constitutes the transfer of a property right. The transfer creates a right of access but does not guarantee an approach. An applicant who seeks an approach to the state highway must apply for an approach from the Department. A grant of access does not excuse the recipient from the duty to obtain and comply with the conditions of any Permit to Operate, Maintain and Use an Approach that may be required under ORS 374.310 and the rules adopted by the Department pursuant thereto.

(2) Applicability of this rule. The owner of the property which abuts the highway or road right of way must be one of the applicants to be considered for the grant of access.

(3) Circumstances under which a grant of access for a private approach may be allowed. A grant of access for a private approach to property abutting a state highway or road where the right of access does not currently exist may be allowed subject to the following provisions:

(a) Freeways, Expressways, and Interchange Access Management Areas (see 1999 Oregon Highway Plan). No grant of access to abutting property will be allowed along freeways (mainline and ramps), expressways or in Interchange Access Management Areas;

(b) Other State and Local Facilities. A grant of access to private property abutting other state and local facilities where the right of access does not exist may be issued only where all of the following conditions are met:

(A) The applicant applies for a grant of access, with the process set forth in OAR 734-051-0440, and applies for an approach, meets all the requirements for issuing the Construction Permit, and agrees in writing to meet all the conditions, if any, placed on the Construction Permit and the Permit to Operate, Maintain and Use an Approach, as set forth in OAR 734-051-0010 through 734-051-0350;

(B) The grant of access is consistent with the 1999 Oregon Highway Plan;

(C) One of the following two circumstances occur:

(i) The Department, using the criteria in section (5) of this rule, determines that access control is no longer needed at the location specified in the grant application; or

(ii) The applicant establishes that the grant of access will directly benefit the state highway system in one or more of the ways described in section (6) of this rule. Demonstration of this benefit generally requires the applicant do a Traffic Impact Study as set forth in OAR 734-051-0180;

(D) The terrain is such that it is not practical to provide alternative access to the property; and

(E) The application for the grant of access has been reviewed by both the Region Manager and the State Traffic Engineer, and approved by the Technical Services Manager; and

(c) As a condition of the grant of access for a private approach, the Department may require the property owner to place restrictions on the deed to ensure that future development intensity and trip generation can be safely accommodated by the state transportation system.

(4) Circumstances under which a grant of access for a public approach may be allowed. A grant of access for a public approach to the highway or road where the right of access does not currently exist may be allowed subject to the following provisions:

(a) Freeways and Interchange Access Management Areas (see 1999 Oregon Highway Plan). No grant of access will be allowed along freeways (mainline and ramps) and Interchange Access Management Areas.

(b) Other State and Local Facilities. A grant of access to abutting property along other state and local facilities for a public approach may be issued where all of the following conditions are met:

(A) The applicant applies for a grant of access, with the process set forth in OAR 734-051-0440, and applies for an approach, meets all the requirements for issuing the Construction Permit, and agrees in writing to meet all the conditions, if any, placed on the Construction Permit and the Permit to Operate, Maintain and Use an Approach, as set forth in OAR 734-051-0010 through 734-051-0350;

(B) The grant of access request is consistent with the 1999 Oregon Highway Plan, and the adopted State Highway Corridor Plan and local transportation system plan. In the absence of an adopted corridor plan or transportation system plan, a grant of access will be considered only where the applicant has explored all possible alternatives to the connection, including parallel streets, which might include the purchase of additional right of way;

(C) One of the following two circumstances occur:

(i) The Department, using the criteria in section (5) of this rule, determines that access control is no longer needed at the location specified in the grant application; or

(ii) The applicant demonstrates that the grant of access will directly benefit the state highway system in one or more of the ways described in section (6) of this rule. Demonstration of this benefit generally requires the applicant do a Traffic Impact Study, as set forth in OAR 734-051-0180. If the proposed connection is a public facility with a functional classification of collector or higher, and is identified in an adopted Transportation System Plan (TSP) that is consistent with the Transportation Planning Rule, OAR 660-012-0000 through 660-012-0070, the Department may accept this as satisfying the benefit requirement. The Department will require the inclusion of supporting documentation in the TSP of sufficient detail to meet the benefit requirements of this rule. The Department maintains sole discretion in determining if the supporting documentation is sufficient; and

(D) An intergovernmental agreement detailing responsibility for construction, maintenance, operation and cost is prepared and executed before work begins; and

(c) As a condition of a grant of access for a public approach, the Department and the local jurisdiction(s) may enter into an interagency agreement(s) that addresses transportation plan and land use amendments or modifications to ensure that planned development intensities and trip generation can be safely supported on the state transportation system.

(5) Factors considered in determining whether access control is still needed. For the purposes of sections (3) and (4) of this rule, the factors considered by the Department to determine whether access control is still needed at the location specified in the grant application include, but are not limited to, the following:

(a) Classification of the highways and the highway segment designations of the highways;

(b) Access Management Spacing Standards;

(c) Highway Mobility Standards;

(d) State and Local Transportation Plans;

(e) Comprehensive Plan and land uses in the area; and

(f) Safety criteria as set forth in OAR 734-051-0080(3).

(6) Criteria to determine benefit to the state highway system. The Department will utilize the following criteria to determine benefit to the state highway system:

(a) The applicant must demonstrate that allowing the grant of access will provide an immediate as well as long-term benefit to the state highway system. All requests for a grant of access shall evaluate the benefits to the system over a 20-year horizon from the date of application;

(b) The demonstrated benefit must exceed any mitigation of impacts to the highway with regard to safety and/or operations as required for issuance of a Permit to Operate, Maintain and Use an Approach. The final determination of what constitutes a benefit to the state highway system involves professional judgement and remains the sole discretion of the Department; and

(c) The Department will base its final determination of benefit to the state highway system on the following criteria:

(A) The applicant must demonstrate a benefit in one or more of the listed criteria:

(i) The new approach will afford better management of access to the state highway in the immediate vicinity by controlling or combining the location of approaches in a manner that improves private approach spacing towards the access management spacing standards, improves public road intersection spacing, or improves intersection sight distance; or

(ii) The new approach will afford better management of access to the state highway by eliminating existing or future approaches; and

(B) The applicant must demonstrate a benefit in one or more of the following listed criteria with no degradation of any of these criteria:

(i) Improve highway mobility standards such as, but not limited to, V/C or signal progression;

(ii) Improve safety of the section of state highway where the new approach will be located, or eliminate a safety problem elsewhere on the state highway system through closure of an existing approach. A safety benefit must be conclusive and agreed upon by the Department. The final determination of what constitutes a safety benefit to the state highway system involves professional judgement and remains the sole discretion of the Department;

(iii) Improve operations on the state highway system in the general vicinity while showing acceptable operations and safety at the grant location. Improved operations may utilize connectivity, traffic diversions, or other traffic engineering techniques;

(iv) Improve off-system connectivity thereby reducing demand to the state highway system without creating an operational or safety problem somewhere else on the state highway system. In order to qualify as a benefit to the state highway system, the connectivity must occur immediately or there must be commitment in the local government's adopted Capital Improvement Plan to construct the roadway so that system connectivity is established; or

(v) Any other circumstances determined by the Department that adds benefit to the state highway system.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999 Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

734-051-0440**Application Procedure for Grants of Access**

(1) Applications for Grants of Access. The following apply to applications for grants of access:

(a) An application for a grant of access to a state highway shall be made on the standard state form, available at all Department District offices, to the appropriate Region Manager through the appropriate District office;

(b) The appropriate processing fee must accompany the application, as set forth in OAR 734-051-0470;

(c) The Department or the applicant may request a meeting to discuss the application process for a grant of access and/or any additional information required;

(d) The Department may refuse to accept an application for a grant of access when information it considers necessary is missing from the application; and

(e) Since a grant of access constitutes the transfer of a property right, the Department may refuse to accept an application for a grant of access from anyone other than the owner(s) of the abutting property or their designated agent.

(2) An application for a grant of access will not be accepted unless an application for an approach and all required documentation has been submitted to the Region Manager.

(3) Upon acceptance of the application for grant of access and any required attachments, the Department shall use OAR 734-051-0010 through 734-051-0480, ORS Chapter 374 and any other applicable state statutes, administrative rules, and Department manuals for evaluating and acting upon the application for a grant of access.

(4) Required Documentation. Applicants for a grant of access must submit all the materials described in OAR 734-051-0130, and a current preliminary title report covering the property to be served by the grant of access, showing any access easements appurtenant to the property.

(5) Once the grant application is deemed complete, the Region Manager shall review the application for a grant of access and evaluate if it meets the minimum requirements of the rules governing a grant of access, OAR 734-051-0410 through 734-051-0480, and Department policy. The Region Manager will either:

(a) Forward the application for a grant of access to the State Traffic Engineer for further consideration; or

(b) Deny the application for a grant of access.

(6) If the application for a grant of access is forwarded to the State Traffic Engineer, the State Traffic Engineer, with the assistance of Department staff, will:

(a) Evaluate the application for a grant of access;

(b) Notify the applicant of any additional information required, which may include, but not be limited to, a Transportation Impact Study, as set forth in OAR 734-051-0180; and

(c) Make a recommendation to the Technical Services Manager.

(7) The Technical Services Manager shall make the final decision on an application for a grant of access and shall notify the applicant.

(8) If the grant of access is approved:

(a) An appraisal of the abutting property shall be done to determine fair market value of the grant of access, as set forth in OAR 734-051-0470; and

(b) The applicant shall be notified of the amount, with instructions for payment.

(9) A grant of access will not be issued until payment of fair market value has been received by the Department. After payment is received:

(a) The grant of access will be executed and recorded; and

(b) A copy of the grant of access will be sent to the Region Manager so that a Construction Permit for the approach can be issued in accordance with OAR 734-051-0220 and 734-051-0230.

(10) Denial of a grant of access may be appealed through the appeal process as set forth in OAR 734-051-0400 should a collaborative discussion not result in resolution.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0450**Indentures of Access**

(1) Indentures of access may be allowed if the applicant meets all the following criteria:

(a) The abutting property owner applies for the indenture as set forth in OAR 734-051-0460, applies for an approach, meets all the requirements for issuing the Construction Permit, and agrees in writing to meet all the conditions, if any, placed on the Construction Permit and the Permit to Operate, Maintain and Use an Approach, as set forth in OAR 734-051-0010 through 734-051-0350, including closure of the existing approach, if applicable;

(b) The Region Manager approves the indenture application; and

(c) If the indenture application is to increase the width of an existing reservation that is specified in the deed record or to make other changes, the Department as a condition of approval may require combining the property's existing reservations of access.

(2) A request for removal of specified use restrictions imposed on an existing reservation of access may be considered provided the owner complies with the provisions in section (1) of this rule. Any request to remove farm crossing or farm access restrictions requires a grant of access and must be requested as set forth in OAR 734-051-0430 and 734-051-0440.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0460**Application Procedure for Indentures of Access**

(1) Application for Indentures. Applications for indentures of access shall be made as follows:

(a) An application for an indenture of access to a state highway shall be made on the standard state form, available at all Department District offices, to the appropriate Region Manager through the appropriate District office;

(b) The appropriate administrative fee must accompany the application, as set forth in OAR 734-051-0470;

(c) The Department or the applicant may request a meeting to discuss the application process for an indenture of access and/or any additional information required;

(d) The Department may refuse to accept an application for an indenture of access when information it considers necessary is missing from the application; and

(e) Since an indenture of access relates to a property right, the Department may refuse to accept an application for an indenture of access from anyone other than the owner(s) of the abutting property or their agent.

(2) An application for an indenture of access may not be accepted unless an application for an approach and all required documentation has been submitted to the Region Manager.

(3) Upon acceptance of the application for an indenture of access and any required attachments, the Department shall use OAR 734-051-0010 through 734-051-0470, ORS Chapter 374 and any other applicable state statutes, administrative rules, and Department manuals for evaluating and acting upon the application for an indenture of access.

(4) Required Documentation. Applicants for an indenture of access must submit all the materials described in OAR 734-051-0130, and a current preliminary title report or a chain of title from when the state required the access rights to the current owner, including copies of the vesting deeds.

(5) The Region Manager shall make the final decision on an application for an indenture of access and shall notify the applicant.

(6) Denial of an indenture of access may be appealed through the appeal processes as set forth in OAR 734-051-0390 and 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

734-051-0470**Administration of Grants and Indentures of Access**

Costs incurred by the Department in processing a request for access modification shall be paid by the party requesting the modification:

(1) An administrative fee will be required to apply for an indenture of access.

(2) The processing fee for a grant of access will be based on the actual documented costs incurred by the Department plus a 10 percent charge for general administration. This will include, but not be limited to, the cost to secure an appraisal of the market value of the grant. An initial deposit, applied towards the processing fee must accompany the application for a grant of access. The amount of the deposit will be determined by the Department based on the complexity of the request and the anticipated cost of obtaining an appraisal.

(3) In addition to the processing fee, if a grant of access is approved, payment must be made to the Department in an amount equal to the fair market value of the right of access before a Construction Permit can be issued.

(4) Only when an application for a grant of access is for a public approach, the following shall apply:

(a) If the applicant has demonstrated that the grant of access for public approach directly benefits the State highway system, payment to the Department of the appraised value of the grant of access may be waived. The benefit to the State highway system must be a direct and immediate result of the grant of access and construction of the approach; or

(b) If the Department determines that access control is no longer needed, as set forth in OAR 734-051-0420(3), at the location specified in the application for a grant of access for a public approach and the applicant does not demonstrate a benefit to the State highway system, payment must be made to the Department in an amount equal to the fair market value of the right of access. The determination of which property is benefited by the grant of access and subject to appraisal is the sole responsibility of the Department.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 374.310 & Ch. 974, OL 1999
 Hist.: 1 OTC 19-1980, f. & ef. 10-22-80, TO 4-2000, f. 2-14-00, cert. ef. 4-1-00;
 Renumbered from 734-050-0085

734-051-0480

Collaborative Discussions

The Department encourages the utilization of collaborative discussions as an alternative process for dispute resolution, as set forth in the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, including those rules related to contested cases and collaborative processes for disputes arising under OAR 734-051-0010 through 734-051-0470. The Department's rules for confidentiality in mediation are set forth in OAR 731-001-0100 through 731-001-0710.

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 4, Ch. 972 & Ch. 974, OL 1999
 Stats. Implemented: ORS 183.502 & Ch. 974, OL 1999
 Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00

Remedies in Closure of Approaches

734-051-0500

Authority and Purpose of OAR 734-051-0500 through 734-051-0560

(1) Pursuant to Ch. 972, OL 1999, a person holding an interest in real property, which is or would be served by an approach may appeal the closure or denial of the approach pursuant to OAR 734-051-0400 by filing a claim for relief when:

(a) The Department closes an approach for which a permit was issued under ORS 374.310 or denies an application for an approach at the location of a grant or reservation of access; and

(b) Such closure or denial is not the result of conditions contained in a contract, condemnation judgment, recorded deed or permit.

(2) The Department may offer remedies upon such closure or denial.

(3) OARS 734-051-0500 through 734-051-0560:

(a) Establish administrative remedies to address issues related to real property, value, utility and use; and

(b) Provide a simplified procedure for resolving the claim.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

734-051-0510

Definitions

The following definitions apply to OAR 734-051-0500 through 734-051-0560:

(1) "Claim for relief," means an appeal of the denial of an approach application or the closure of an existing permitted approach under OAR 734-051-0400.

(2) "Person holding an interest in real property," means the owner of the title to real property or the contract purchaser of such real property, or record as shown on the last available complete tax assessment roll.

(3) "Administrative remedy," "appropriate remedy" or "remedy" mean the monetary or non-monetary benefits to a property that would address issues related to real property value, utility or uses, which include the equivalent value of:

(a) Actual physical reconnection of an approach to the highway or some other public facility;

(b) Construction of public roads or other public facilities, including frontage or utility roads, city streets, alleys or county roads;

(c) Improvements or modifications to the real property served or intended to be served by the approach, including paving of parking, restriping of lanes or parking, relocation of other traffic barriers and other items that directly address the impact to the property of the closure or denial; and

(d) Improvements or modifications to highways or other public facilities, including medians or other traffic channelization, signing or signal installation.

(4) Remedies will include any benefits derived by the property by virtue of highway improvements and highway modifications, whether or not related to the specific closure.

(5) Remedies will be limited to those necessary to serve existing uses or other uses reasonably allowed given the existing zoning of the property and other factors, including physical or geographic constraints.

(6) Remedies do not include:

(a) Reimbursement for attorney fees;

(b) Relocation expenses;

(c) Lost profits;

(d) Lost opportunities; or

(e) Costs not specifically related to value, utility or use of the property itself.

(7) Offers of remedies are totally discretionary on the part of the Department and are not subject to a contested case appeal.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

734-051-0520

Offer of Remedies

(1) The Department shall make a determination of whether closure of the approach or denial of an application would create issues related to real property value, utility and use, and what remedies would address those issues.

(2) The Department will provide a written statement of such remedies, if any, within 30 days of the denial of the application or notice of intent to close a permitted approach.

(3) If such remedies are acceptable to the property owner, and there is written acceptance:

(a) The property owner shall not be entitled to any other remedies for such closure or denial; and

(b) Any appeal under OAR 734-051-0400 shall be dismissed.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

734-051-0530

Procedure for Resolving Claims

(1) Parties may agree to participate in mediation consistent with the applicable provisions of ORS 36.180 to 36.210 at any time during the process of determining the appropriate remedies, but prior to the final order in any contested case under OAR 743-051-0400.

(2) During mediation the parties may discuss any appropriate remedies in reaching agreement. Such mediation may also occur during the collaborative discussion phase of the review procedure for the denial or closure. (See OAR 734-051-0390).

(3) The property owner and the Department also may enter into an agreement to collaborate if the Department determines that the difference between the remedies offered and remedies claimed by the property owner is less than \$30,000.

(a) The agreement to collaborate may provide for a mutually chosen mediator as defined in ORS 36.180 to 36.210 to review the information made available to each party as of that time and other information mutually agreed to by the parties.

(b) The value of the remedies offered and claimed will include a dollar value assigned by the Department to any non-monetary remedies. Such review will result in a recommendation of remedies, subject to the condition that such remedies are neither less than the lower nor more than the greater of the offer and claim, in terms of assigned monetary value.

(c) The remedies recommended by the third party will be presented to the Director or the Director's designee. The Director or designee shall take this recommendation into consideration in making subsequent offers of remedies.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

734-051-0540

Appraisals

(1) Either the Department or the property owner, at their own cost, may at any time before or during the appeal of the closure or denial under OAR 734-051-0400, have an appraisal performed to assist in determining the remedies that would address the real property value, utility or use:

(a) Each party shall notify the other party of such appraisal in a timely manner; and

(b) There shall be full disclosure and sharing between the parties of any appraisal and appraisal information without the necessity of formal requests or discovery.

(2) A qualified review appraiser must review all appraisals to ensure conformance with federal and state eminent domain and access laws:

(a) The reviewer may be selected by the Department or selected jointly by way of mutual agreement of both the Department and the property owner; and

(b) The same review appraiser must review all appraisals for one effected property to ensure consistency.

(3) The Department and property owner may agree to mutually select one appraiser, share the appraisal costs and submit agreed to instructions to the appraiser:

(a) An appraisal from an appraiser selected under this section, after review as set forth in section (2) of this rule, will be presented to the Director or the Director's designee; and

(b) The Director or designee shall take the information in the appraisal into consideration in making subsequent offers of remedies.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

734-051-0550

Conditions of Agreement

Reaching agreement on the appropriate remedies is contingent upon:

(1) Receipt by the Department of a recordable document relinquishing any grant or reservation of access at the location of the approach closure or approach application; and

(2) Termination of the permit for any approach which is a subject of the settlement.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

734-051-0560

Delegation

(1) For OAR 734-051-0500 through 734-051-0560, the Director delegates authority to the Right of Way Manager or the Manager's designee to:

(a) Determine the Department's offer of remedies, and

(b) Agree to any settlement which includes providing administrative remedies.

(2) The actions in section (1) of this rule must occur prior to the final order in a contested case conducted under OAR 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stat. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

DIVISION 55

POLE LINES, BURIED CABLES, PIPE LINES, SIGNS, MISCELLANEOUS FACILITIES AND MISCELLANEOUS OPERATIONS

734-055-0005

Scope

This rule shall apply to and govern the location, installation, construction, maintenance and use of pole lines, buried cables, pipe lines, signs, miscellaneous operations upon State Highway right-of-way and properties under the jurisdiction of the Department of Transportation.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81

734-055-0010

Definition of Terms

(1) "AASHTO" means American Association of State Highway and Transportation Officials. Mailing address: AASHTO, Suite 225, 444 North Capitol Street, N.W., Washington D.C., 20001.

(2) "Access Control Line" means the control line that is defined somewhere between the right-of-way line and the edge of the roadway. When there is no defined access control line, access is controlled at the right-of-way lines.

(3) "Aesthetic Quality" means those desirable characteristics in the appearance of the highway and its environment, such as harmony between or blending of natural and manufactured objects in the environment, continuity of visual form without distracting interruptions, and simplicity of designs which are desirably functional in shape but without clutter.

(4) "Applicant" means the corporation, company, firm, business, partnership, individual or individuals named in and signing the permit and to whom the permit is issued.

(5) "Buried Cable" means any and all cables, wires, conduits, pedestals and/or related fixtures authorized in the permit placed beneath the ground.

(6) "Clear Zone Area" means that portion of the roadside, within the highway right-of-way, free of nontraversable hazards and fixed objects. The purpose of such areas is to provide drivers of errant vehicles which leave the traveled portion of the roadway a reasonable opportunity to stop safely or otherwise regain control of the vehicle. The clear zone area may vary with the type of highway, terrain traversed, and road geometric and operating conditions. AASHTO standards will be applied for establishing clear zone areas for various types of highways and operating conditions.

(7) "Commission" means the Oregon Transportation Commission.

(8) "Department" means the Department of Transportation of the State of Oregon.

(9) "D.M." means District Manager or his designated representative. There are 16 Highway Districts throughout the State of Oregon.

(10) "Engineer" means the Chief Engineer or such person as he shall designate in writing.

(11) "Facility" means pole line, buried cable, pipe line, sign or miscellaneous facilities as those terms are defined in this section.

(12) "FHWA" means Federal Highway Administration.

(13) "Freeway" means a divided arterial highway for through traffic with access allowed only at interchanges.

(14) "Hardship Case" means an extraordinary case or emergency situation that environmentally and economically prohibits a utility from being located on private property.

(15) "Highway" means the public way for vehicular related facilities which are under the jurisdiction and control of the Oregon Department of Transportation.

(16) "Miscellaneous Operations" means the performance of miscellaneous operations as described in the permit.

(17) "Miscellaneous Facility" means the facility authorized by the permit, other than pole line, buried cable, pipe line or sign.

(18) "M.U.T.C.D." means Manual on Uniform Traffic Control Devices for Streets and Highways.

(19) "Permit" means a fully executed form entitled, State of Oregon, Department of Transportation, application or permit to construct pole line, buried cable, pipe line, signs, and miscellaneous operations, miscellaneous facilities, all special permit provisions included in the permit as deemed necessary by the District Manager and all attached exhibits.

(20) "Pipe Line" means any and all pipe lines, hydrants, valve boxes, manholes, conduit and/or related fixtures authorized in the permit.

(21) "Pole Line" means any and all poles, wires, guys, anchors, and/or related fixtures authorized in the permit.

(22) "Right-of-Way" means the entire width between the exterior right-of-way lines including the paved surface, shoulder, ditches and other drainage facilities in the border area between the ditches or curves and the right-of-way line.

(23) "Roadway" means the portion of a highway, including shoulders, for vehicular use.

(24) "Signs" means non-commercial signs and related fixtures authorized in the permit.

(25) "Special Provisions" means those provisions shown under the heading "Special Provisions" in the permit. In all cases of conflict between the Special Provisions and General Provisions, the Special Provisions shall govern.

(26) "Utility Facility" means privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm, water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of these rules, the term includes those utility-type facilities which are owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility includes those facilities used solely by the utility which are a part of its operating plant.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0015

Permit Application Procedure

(1) Application for a permit shall be made on the form described in OAR 734-055-0010(19) which may be obtained from the DM office. Applicant shall complete the application and furnish five copies of all necessary attachments. All permit attachments shall be 8 1/2 x 11 inches when possible.

(2) Each permit application will be reviewed by the DM and a site review may be required by the DM.

(3) To facilitate site review (if required by the DM), applicant shall place markers such as lath stakes, or other markings as required at the locations where the applicant proposes to work.

(4) In reviewing permit applications, the DM may consider the following objectives:

(a) Accommodation of utility facilities with no adverse affect on traffic safety, operation, maintenance and aesthetic quality of the highway system;

(b) Incorporation of the appropriate industry code standards and AASHTO publications;

(c) Placement of utility installations in locations where they shall be reasonable to construct and maintain;

(d) Safe and unimpaired use of the highway;

(e) Alternate routes of the utility facilities outside of highway right-of-way should be evaluated for the environmental and economic impact of any loss or impairment of productive agricultural land.

(5) No permit is valid until a copy, approved by the Engineer, has been furnished applicant. No work on highway right-of-way or other Department property is to be started until applicant obtains a

valid permit. However, a permit may provide that for a facility, customer service drops or laterals may be placed after notice has been provided to the DM.

(6) An applicant to whom a permit has been issued may undertake emergency repairs upon verbal permission from the DM.

(7) The permit may be presented by an agent, employee or contractor of applicant but it must be signed by applicant.

(8) Applications that deviate from the prescribed rules and regulations must be accompanied by a Permit Variance Request.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0017

Utility Facility Permit Fees

(1) Utility Facility permit fees will be assessed when a permit or permit amendment for a Utility Facility is issued. Utility Facility permit fees are based on the nature, size and extent of the Utility Facility and the Department's costs of reviewing plans and administering the construction of such facilities. Utility Facility Permit Fee Schedule 'A' and Utility Facility Permit Fee Schedule 'B', hereby adopted and made a part of this rule, establish the criteria for determining the permit class and project category upon which permit fees are based.

(a) The following fees apply to a Utility Facility permit or permit amendment that is not related to construction which is initiated by the Department, based on the criteria established in Utility Facility Permit Fee Schedule 'A':

Class — Fee

(A) 1 — \$150

(B) 2 — \$400

(C) 3 — \$1,000

(D) 4 — \$3,000

(b) The following fees apply to a Utility Facility permit or permit amendment which is required because of actions under OAR 734-055-0045, based on the criteria established in Utility Facility Permit Fee Schedule 'B':

Class — Project Category: 1 — 2 — 3 — 4

(A) A — \$250 — \$500 — \$750 — \$1,000

(B) B — \$500 — \$1,000 — \$1,500 — \$2,000

(C) C — \$1,000 — \$2,000 — \$4,000 — \$6,000

(D) D — \$4,000 — \$7,000 — \$10,000 — \$15,000

(2) Maintenance of, including replacement in kind, and service connections that can be made without crossing the road from existing permitted installations require 48 hour prior notification to the District Office but are exempt from a permit fee.

(3) The department may, as a condition of the permit, require independent inspection or testing that is in addition to the Utility Facility permit fee.

(4) Activities allowed under existing permits where only notification of the ODOT District Office is required can be performed without an additional Utility Facility permit or permit amendment and without cost. Additionally, District Managers may waive fees for any permit where less than a minimal amount of staff time is required for all ODOT time related to issuance and administration of the permit.

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, Sec. 2, Ch. 664, OL 2001 & Sec. 1 and 2, Ch. 820, OL 2001

Stats. Implemented: ORS 758.010, Sec. 2, Ch. 664, OL 2001, Sec. 1 & 2, Ch. 820, OL 2001

Hist.: TO 1-2002(Temp), f. & cert. ef. 1-9-02 thru 7-7-02; TO 6-2002, f. & cert. ef. 6-24-02

734-055-0020

Allocation of Cost

(1) The entire cost of locating, constructing, installing, maintaining, repairing, operating or using the facility; or performing miscellaneous operations and of any other expense whatsoever incident to the facilities or operations authorized by the permit shall be paid by applicant.

(2) Applicant shall, in addition to section (1) of this rule reimburse the Department for any reasonable and necessary expenses that the Department may incur in connection with and related solely to the installation of the facility or conducting the operation authorized by the permit. Payment shall be made within 30 days after receipt of billing from the Department. When required by the permit, an

advance deposit shall be filed with the DM before the permit work begins.

(3) Applicant shall pay the current market value for any existing forest products on any state land which are damaged or destroyed as a result of operations authorized by the permit. Payment shall be made within 30 days after receipt of billing from the Department.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0025

Liability and Control

(1) Applicant shall be responsible and liable for all damage or injury to any person or property resulting from the physical location, installation, construction, maintenance, operation or use of the facility or operation for which applicant has been granted a permit. Applicant shall indemnify and hold harmless the State of Oregon, the Commission, the Department against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct, or operation of applicant, its agents or employees in connection with the physical location, installation, construction, maintenance, repair, operation or use of said facility or in conducting an operation.

(2) Applicant shall be responsible for relocating or adjusting any other facilities located on highway right-of-way as required to accommodate the facility or operation applied for. Construction of the facility or conducting of an operation by applicant, its agent or contractor, will be permitted only after applicant has furnished the DM evidence that satisfactory arrangements for said relocation or adjustment have been made with the owner of the affected other facility.

(3) The Department, the Engineer, or employees shall not be responsible or liable for injury or damage that may occur to the facility covered by the permit by reason of Department maintenance and construction operations or resulting from motorist or road user operations, or Department contractor or permittee operations, except as to injury or damage caused by the negligence of the Engineer or employees of the Department.

(4) Applicant shall employ any and all methods in performing the operations authorized by the permit which the Engineer may require in order to properly protect the public from injury and the highway from damage.

(5) If the highway surface or highway facilities are damaged by applicant, applicant shall replace or restore the highway or highway facilities to a condition satisfactory to the DM, whether discovered at the time of installation or at a later date. The DM at his option may have applicant replace or restore the highway or highway facilities to a condition satisfactory to him or the DM may replace or restore the highway or highway facilities by contractor or state forces and the costs incurred to be paid by applicant under the terms outlined in OAR 734-055-0020(2).

(6) The work area during any construction or maintenance performed under the permit provisions shall be protected in accordance with the current **Manual on Uniform Traffic Control Devices for Streets and Highways** as amended or supplemented by the Commission. Necessary signs shall be furnished by applicant unless otherwise specified in the permit. Applicant's traffic control plan shall be reviewed and approved by the DM before work begins.

(7) The stopping or parking of vehicles upon the state highway right-of-way for the servicing of such vehicles or the conducting of any business transaction or commercial activity upon state highway right-of-way is strictly prohibited.

(8) Applicant shall be solely responsible for providing correct and complete information as may be required by the permit or the DM. If the DM should determine that any fact required of applicant which is material to the assessment of the facility or operation's impact upon traffic safety, convenience and/or the legal or property rights of any person (including the State of Oregon) is false, incorrect or omitted, the DM may deny or revoke the permit and may require applicant to remove the facility or terminate the operation and restore the facility area to a condition acceptable to the DM at applicant's expense. In such cases the DM, in his judgment, may also require applicant to provide, at applicant's expense, any additional

safeguards and/or facilities required to protect the safety, convenience and rights of the traveling public and persons (including the state), if such additional requirements are adequate to achieve those purposes, as a condition of the continued validity of the permit.

(9) To ensure compliance with the terms and conditions of the permit, the Department reserves the right to inspect the work during such periods as the DM deems necessary, to check compliance with the terms of the permit by applicant and to require applicant to correct all deviations from those terms and conditions. The cost of such inspection shall be paid by applicant under the terms outlined in OAR 734-055-0020(2).

(10) Any supervision and/or control exercised by the Department personnel shall in no way relieve applicant of any duty or responsibility to the general public nor shall such supervision and/or control relieve applicant from any liability for loss, damage or injury to persons or property as provided in section (1) of this rule.

(11) Facilities shall be located where they do not create undue interference or hazard to the free movement of normal highway or pedestrian traffic. Locations on sharp curves, steep grades, areas of restricted sight distance or at points which interfere with the placement and proper functioning of traffic control signs, signals, lighting or other devices that affect traffic operation will not be permitted. Any revisions to the facility location shall be approved by the DM prior to construction. Applicant shall furnish the DM two sets of "as constructed" drawings that show the facility location revisions.

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

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0035

Insurance and Bond

(1) When requested in writing by the DM, applicant or its contractor shall obtain and carry, for the period that the facility is being located, installed or constructed or any operation conducted, in order to assume responsibility under OAR 734-055-0025(1) including the repair and restoration of the highway facilities, and also during such future period of time when activities are performed involving the repair, relocation or removal of said facilities or operations conducted which have been authorized by the permit, a certificate of self-insurance or liability and property damage insurance policy or policies providing the coverage against any claim, demand, suit or action for property damage, personal injury, or death resulting from any activities of applicant, its officers, employees, agents or contractors in connection with the location, installation, construction, repair, removal or use of the said facilities or operations being conducted as authorized by the permit and the repair and restoration of the highway facilities, and the said certificate of self-insurance or policy or policies, in addition, shall include as named insureds the State of Oregon, the Commission, the Department, and members thereof, its officers, agents and employees, except as to claims against applicant, for personal injury to any members of the Commission, the Department, or its officers, agents, and employees, or damage to any of its or their property. The said self-insurance certificate or policy shall provide proof of coverage of a combined single unit of \$500,000. The said insurance policy or policies shall be in an insurance company duly authorized and licensed to do business in the State of Oregon. A copy of the certificate of self-insurance or policy or policies, or a certificate evidencing the same, shall be submitted to the Access and Utility Permit Unit, 800 Airport Road, Salem, OR 97310 and approved by this office before any work is commenced under the permit.

(2) When requested in writing by the DM, applicant or its contractor shall furnish for the period of time necessary to construct or install a facility or conduct an operation authorized by the permit, including the repair and restoration of the highway facilities, or the conducting of any operations and also during such future periods of time when activities are performed involving the repair, relocation or removal of said facilities authorized by the permit, a bond or cash deposit in the amount specified in the Special Provisions of the permit. If a bond is furnished, it must be written by a surety company duly qualified and licensed to do business in the State of Oregon and in a form satisfactory to the Engineer. No work shall be commenced under the permit until the said bond has been submitted to and

approved by, or the said cash deposit has been received by the Access and Utility Permit Unit, 800 Airport Road, Salem, OR 97310.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0040

Construction and Location Details

(1) Applicant or its contractor shall advise the DM's office at least 48 hours in advance of commencing construction of a facility for which a permit has been issued.

(2) Applicant shall submit with the permit application prints of adequate drawings or sketches showing in detail the location of the proposed facility or operation as described in the permit application with respect to existing and/or planned highway improvement, the roadway, the right-of-way lines, and, where applicable, the access control lines and approved access points:

(a) When attachment to a highway structure is involved, details of the attachment method including type of support, spacing, size of pipe and location of the facility shall be included. The attachment method shall be designed by a professional engineer;

(b) When the proposed facility involves pressure pipe lines the following additional data is required:

(A) Design pressure of pipe;

(B) Normal operating pressure;

(C) Maximum operating pressure.

(3) Applicant's completed facility shall be in substantial conformance with the drawings or sketches referred to in section (2) of this rule unless special permission is obtained from the DM to vary from same during installation. When such permission is obtained, applicant shall furnish the DM two sets of "as constructed" drawings or sketches detailing any such variances.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0045

Removal, Relocation or Repair

(1) The permit is issued pursuant to the law of the State of Oregon which authorizes the Commission to subsequently require applicant to remove, relocate or repair the facility covered by the permit at the sole cost of applicant.

(2) Upon receiving written notice from the Engineer to remove, relocate or repair the said facility, applicant shall within 30 days or within the time frame contained in the notice, provide to the Engineer its time estimated requirements for accomplishing the directed action.

(3) The Engineer, after applicant has provided its estimated time requirement for removal, relocation or repair of said facility, may schedule a preconstruction meeting with all applicants and affected contractors to coordinate the requested activity.

(4) The Engineer in a second notice shall direct applicant, within a specified time frame and consistent with a coordination plan, to complete the removal, relocation or repair of said facility. The time frame outlined in the notice shall take into consideration the applicant's estimated time requirements to accomplish the directed action. Such removal, relocation, or repair shall be at applicant's sole cost in accordance with said second notice and instructions received from the Engineer. Before commencing said removal, relocation or repair, applicant shall furnish such insurance and post such bond as the Engineer may consider necessary at that time in the manner provided for in OAR 734-055-0035(1) and (2).

(5) Should applicant fail to remove, relocate or repair the facility as provided in section (4) of this rule, the DM may remove, relocate or repair same and submit a statement of total costs for this work to applicant. Applicant upon receiving said statement will immediately, or within a period of time agreed upon between applicant and Engineer, pay to the Department the full amount of said removal, relocation or repair costs.

(6) If the section of highway in which applicant is required by the Engineer to remove, relocate or repair a facility is or will be under construction or reconstruction or improvement under a contract entered into between the Department and an independent contractor and applicant's failure to remove, relocate or repair said pole line,

buried cable, pipe line, sign or miscellaneous facility within the time specified in section (4) of this rule, or such other time as may be specified by the Engineer, results in payment by Department to its contractor of any claim for extra compensation for any work under said contract, applicant shall be liable to the Department for payment of the amount paid to Department's contractor as a direct result of applicants failure to comply with the time requirements of the Engineer.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0050

Maintenance and Operation

(1) Applicant shall at all times keep facilities authorized by the permit in a good state of repair both structurally and, in the case of signs, a clean and neat appearance.

(2) In the event applicant plans to raise the operating pressure for existing pressure pipe lines covered by permit above the "maximum operating pressure" shown in said permit, application for a new permit or an amendment to the existing permit is required.

(3) In the event applicant plans to install additional conductors, or replacement conductors of a higher capacity, on an existing aerial pole line covered by permit, application for a new permit or an amendment to the existing permit is required.

(4) Prior to performing any maintenance work on the facility, applicant shall obtain prior approval from the DM.

(5) All abandoned facilities belonging to the applicant shall be removed from the right-of-way by the applicant, unless the DM allows the facilities to remain by permit.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0055

Other Agencies

(1) Nothing in this permit is intended to grant rights or imply approval in areas not falling within the authority and jurisdiction of the Oregon Department of Transportation. It is the responsibility of applicant to determine the need for and to obtain such licenses, permits or other form of approval which may be required by other state agencies, federal agencies, cities and/or counties of Oregon, utility companies or railroads.

(2) If the section of highway covered by the permit is located within a National Forest, because the Department does not generally have any further rights across National Forest land other than an easement for highway purposes, the permit extends only to such rights as the Department has acquired and may therefore properly give. For National Forest lands where the facility constitutes a servitude on the property of the United States, in addition to the rights of the Department, a permit from the Forest Service must be obtained before a highway occupancy permit will be issued. Unless applicant has evidence satisfactory to the Engineer that the rights of the United States in any National Forest land crossed by the highway right-of-way will not be impaired by the facility covered by this permit, application for a permit should be made to the supervisor of the National Forest in which the facility is to be located.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81

734-055-0060

Effective Period of Permit

(1) Unless otherwise provided in the Special Provision, the permit shall be in effect for an indefinite period of time from and after the date issued, unless sooner revoked by mutual consent, or by the Commission or Engineer for failure of the applicant to abide by the terms and conditions of the permit, or by operation of the law, or at the time the applicant to which the permit is issued ceases operation.

(2) Failure of applicant to comply with any of the terms and conditions of the permit shall be sufficient cause for cancellation of the permit.

(3) The permit and the privileges granted and the obligations of applicant created thereby shall be binding upon the successors and assigns of applicant. Applicant shall give the Engineer written notice

of any such assignment or transfer within a reasonable time thereafter.

(4) If the applicant fails to commence installation of the facility covered by the permit within the period specified in the permit, the permit shall be deemed null and void and all privileges thereunder forfeited, unless a written extension of time is obtained from the DM.

(5) The construction, maintenance, operation and use of the facility is subject to the paramount control of the Legislature over the state highway system and no right or privilege granted by this rule or the permit issued in accordance with this rule shall be deemed or construed to be beyond the power or authority of the Legislature to control the state highway system. Applicant accepting the permit acknowledges that the rights and privileges granted thereby may at any time be changed or abrogated by Legislative action.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81; HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0070

Conformance with Regulations and Industry Codes

(1) All work in connection with the facility or operation authorized by the permit shall be done in a neat and workmanlike manner to the satisfaction of the DM, and the details of construction of the same shall conform to the established rules and regulations now in effect or which may hereafter be put in effect by the Public Utility Commissioner of the State of Oregon, the Oregon State Board of Health or other governmental agencies having regulatory authority over said facility. In the event the above agencies do not prescribe standards, then the appropriate industry codes shall apply.

(2) The DM may specify requirements in addition to those listed in these rules when it is deemed necessary to adequately protect the public.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0080

Freeways

(1) All permit applications that request the use of freeway rights-of-way shall reasonably comply with the current AASHTO policy on the Accommodation of Utilities Within the Freeway Right-of-Way. Installations that may be allowed on freeways are generally limited to crossings only, with all of the installation work and maintenance activities performed outside of the access control line. All permit applications must include detailed drawings that show the location of the proposed facility and the freeway access control lines and/or right-of-way lines.

(2) Consideration will be given for new longitudinal installations that can be located between the freeway access control line and the freeway right-of-way line.

(3) Only extreme hardship cases will be considered for new longitudinal installations that are inside the freeway access control lines. Applications of this nature must satisfy the AASHTO Policy requirements regarding the impact on the freeway traffic safety, operations and maintenance; the future freeway design and construction; and applicant must demonstrate that alternate locations are not available. Applicant shall address each of the above subjects on the form provided by the DM, titled Permit Variance Request. The Department will evaluate the Permit Variance Request by applying sound engineering principles and judgment to determine the approval or denial of the permit application.

(4) Ground-mounted facilities shall be located to comply with the current clear zone criteria established by AASHTO.

(5) The following activities and installations are prohibited on Interstate Freeway right-of-way:

- (a) Open cutting of the roadway surface;
- (b) Service connections.

(6) Generally, applicant shall not have or gain direct access, either ingress or egress, to any of the facilities authorized by the permit from the main traveled way of said freeway or its on or off ramps. Upon notice to the DM that an emergency exists and repairs are needed for the immediate protection of property and prevention of personal injury, applicant may request direct access to said autho-

rized facility except that no vehicular traffic movement will be permitted which would cross traffic or affect the normal traffic movement. A permit will only be granted during the actual time of the emergency when applicant can assure the safety of the freeway users.

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0090

Specific Construction Details

(1) Corrugated metal pipe and concrete pipe used as a conduit or casing pipe or a gravity flow carrier pipe shall as a minimum conform to requirement of the Department's current issue of **Standard Specifications for Highway Construction**. Smooth iron or steel pipe used as a conduit or casing pipe shall be the standard type used for pressure pipe.

(2) No trench shall be excavated with a top width in excess of 18 inches more than the outside diameter of the pipe, conduit, or cable to be installed unless permission is first obtained from the DM.

(3) All underground installations shall be buried a minimum of 30 inches unless permission is first obtained from the DM.

(4) Aerial utilities crossing the roadway of the highway shall have a minimum vertical clearance of 18 feet.

(5) The backfilling of all trenches and tunnels must be accomplished immediately after the facility authorized by the permit has been placed therein and must be fully compacted to produce a density in place of not less than 95 percent of relative maximum density.

(6) All debris, refuse and waste of all kinds, which may have accumulated upon the highway right-of-way by reason of the activity of applicant shall be removed immediately upon completion of the said activity, and the said highway right-of-way must be restored to at least as good a condition as it was prior to such activity.

(7) Unless special permission is first obtained from the DM, direct burial of cable placed by the plowing method shall be limited to areas outside the roadway of the highway.

(8) Standard warning signs for buried power or communications cable and for pipe lines carrying gas or flammable liquids shall be placed at each crossing under the highway and at intervals along longitudinal installations as required by current Public Utility Commissioner's Order or as specified by the DM:

(a) Signs shall be placed as near the right-of-way line as practical;

(b) No signs shall be placed between the guardrail and the highway roadway.

(9) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless special permission is obtained from the DM to locate elsewhere. In no case shall the pedestals be located within the highway maintenance operating area, including mowing operations, or nearer the pavement edge than any official, highway sign in the same general location.

(10) The buried cable or pipe depth shown on the permit form represents the distance from the top of the surface or ground line to the top of the cable or pipe.

(11) Applicant shall not spray with selective herbicides, cut or trim trees or shrubs growing on the highway right-of-way unless and until written permission and instructions to do so have first been obtained from the DM.

(12) All material installed within highway right-of-way shall be durable and designed for long service life expectancy and shall be relatively free of routine servicing and maintenance requirements.

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

Stat. Auth.: ORS 184 & ORS 374

Stats. Implemented: ORS 374.310

Hist.: HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0100

Permit Allowing Open Cut of Road Surface

(1) Unless special permission is first obtained from the DM to install by open cut, a pipe line or conduit which crosses under the roadway of the highway, including road or street connections, or road approaches or driveways shall either be tunneled, jacked or driven, or placed in a hole bored under the surface for that purpose in accordance with the following provisions:

(a) Trenching in connection with any of these methods shall be no nearer the toe of the fill slope in fill sections or the point where the outer edges of the surfacing meets the subgrade in other sections than specified in the Special Provisions;

(b) If the tunneling method is used it shall be by an approved method which supports the surrounding materials so as to prevent caving or settlement. Areas around the installed pipe or conduit shall be backfilled with moist sand, granular material or cement grout filling all voids and packed in place with mechanical tampers or other approved devices. Lagging, bulkheading and timbering shall be removed as the backfilling progresses;

(c) When the jacking, driving, or boring method is used it shall be by approved means which will hold disturbances of surrounding material to a minimum. Sluicing and jetting is not permitted. Voids or displacement around the outside perimeter of the pipe, conduit or cable shall be filled with sand or cement grout packed in place.

(2) When special permission is granted to open cut the surfaced portion of the highway the following provisions shall be adhered to:

(a) The trench edges in paved areas shall be sawed or cut to neat lines by methods satisfactory to the DM to a depth sufficient to permit removal of pavement without damage to pavement to be left in place. Pavement within the cutting limits together with all other excavated material shall be removed and disposed of outside the highway right-of-way;

(b) In trenching across the highway, no more than 1/2 of the traveled way is to be opened at one time. The opened half shall be completely backfilled before opening the other half;

(c) Closure of intersecting streets, road approaches or other access points will not be permitted. Upon trenching across such facilities, steel running plates, planks or other satisfactory methods shall be used to provide for traffic to enter or leave the highway of adjacent property.

(d) Unless approved by the DM, no more than 300 feet of trench longitudinally along the highway shall be open at one time and no trench shall be left in an open condition overnight;

(e) Immediately after the facility authorized by the permit has been placed in the trench, the trench shall be backfilled to the standard specified by the DM, producing a density in place of not less than 95 percent of relative maximum density. Granular backfill material shall be placed to an elevation which will allow placing the following foundation material and wearing surface:

(A) Where original surface was asphalt concrete or bituminous treatment of mix:

(i) Wearing surface — Asphalt concrete placed to a compacted thickness of 4" or the thickness of the removed pavement, whichever is greater;

(ii) Foundation material — Either 1"—0" or 3/4"—0" aggregate placed to a compacted thickness of 12" or the thickness of the removed stone base, whichever is greater.

(B) Where original surface was Portland cement concrete:

(i) Wearing surface — Portland cement concrete placed to a thickness of 6" or the thickness of the removed pavement, whichever is greater;

(ii) Foundation material — same as for asphalt concrete.

(C) Where original surface was crushed rock or gravel: Wearing surface and foundation material — Either 1"—0" or 3/4"—0" aggregate placed to a total compacted thickness of 4" or the thickness of the removed stone base and wearing surface, whichever is greater;

(D) Placement of all materials in subsections (a) through (c) of this section shall conform to the requirements of the current Oregon Department of Transportation Standard Specifications for Highway Construction.

(d) For a period of two years following the patching paved surface, applicant shall be responsible for the condition of said pavement patches, and during that time shall, upon request from the DM, repair to the DM's satisfaction any of the said patches which become settled, cracked, broken or otherwise faulty.

Stat. Auth.: ORS 184 & ORS 374
Stats. Implemented: ORS 374.310
Hist.: HWY 6-1989, f. & cert. ef. 10-25-89

734-055-0110

Special "X" Permits

Utility facilities that originally occupied a portion of the right-of-way in which the owner had a compensable interest or a prior right

to occupy said right-of-way, will be issued a permit titled "X" Permit. Applicant will be responsible for furnishing the DM with the documentation of the prior rights. The special provisions of this permit will identify the obligations and responsibilities of applicant and the Department.

Stat. Auth.: ORS 184 & ORS 374
Stats. Implemented: ORS 374.310
Hist.: HWY 6-1989, f. & cert. ef. 10-25-89

DIVISION 56

SPECIAL EVENT PERMITS

734-056-0010

Purpose

OAR 734-056-0010 through 734-056-0050 establish statewide criteria for issuing permits for conducting bicycle races and special events on a state highway right-of-way.

Stat. Auth.: ORS 184.619, 810.020, 810.030 & ORS 810.090
Stats. Implemented: ORS 810.020, 810.030 & ORS 810.090
Hist.: HWY 4-1997, f. & cert. ef. 4-23-97

734-056-0020

Definitions

As used in OAR 734-056-0010 through 734-056-0050, the following definitions apply:

(1) "Applicant" means the individual or individuals, corporation, company, firm, business, partnership or agency named in and signing the permit and to whom the permit is issued.

(2) "Bicycle Race Permit" means a fully executed Form 734-2214, entitled "State of Oregon, Department of Transportation, Application for Bicycle Race Permit," all special permit provisions included in the permit as deemed necessary by the District Manager and all exhibits, including any provisions of OAR chapter 734, division 055.

(3) "Bicycle race" means any sanctioned, competitive or timed-bicycle event.

(4) "Department" means the Department of Transportation of the State of Oregon.

(5) "District Manager" means the person in charge of each of the Highway Districts established by the Department throughout the State or the District Manager's designated representative.

(6) "Filming activity" means any film, video tape or still photography, including but not limited to movie and commercial filming.

(7) "M.U.T.C.D." means "Manual on Uniform Traffic Control Devices for Streets and Highways."

(8) "Permit" means a fully executed Form 734-3457, "State of Oregon, Department of Transportation, Application and Permit to Occupy or Perform Operations Upon a State Highway," all special permit provisions included in the permit as deemed necessary by the District Manager and all attached exhibits, including any provisions of OAR chapter 734, division 055.

(9) "Right-of-way" means the entire width between the exterior or public property line including the paved roadway, surface, shoulder area, ditches and other drainage facilities.

(10) "Special event" means any planned activity that brings together a community or group of people for an expressed purpose, including, but not limited to, parades, bicycle races, road runs and filming activity, that may result in total or partial closure of state highway or state highway sections.

(11) "Spokesperson" means the individual chosen by an applicant group to represent the group.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.619, 810.020, 810.030 & ORS 810.090
Stats. Implemented: ORS 810.020, 810.030 & ORS 810.090
Hist.: HWY 4-1997, f. & cert. ef. 4-23-97

734-056-0030

Requirements for Permit Application and Issuance

(1) No special event shall be held on a highway right-of-way without an approved Bicycle Race Permit or Permit.

(2) Application for a Bicycle Race Permit or a Permit for a special event shall be made at least 60 days prior to the event, except for filming activity. Application for a Permit for filming activity shall be made at least five working days prior to the filming activity. The

District Manager may waive this 60-day of five-day requirement under special conditions.

(3) To obtain a Bicycle Race Permit or Permit the applicant shall:

(a) Apply in writing to the District Manager for the district that holds jurisdiction over the location where the special event is proposed to be held. If the special event or race will cross district boundaries, applications must be made to all applicable District Managers. The application shall be made on an Application and Permit to Occupy or Perform Operations Upon a State Highway, Form 734-3457, unless the special event is a bicycle race. Application for a permit for a bicycle race shall be made on an Application for Bicycle Race Permit, Form 734-2214;

(b) Obtain and submit with the application written permission from any city, county, other public agency or chamber of commerce that has regulatory authority over, or that is sponsoring, promoting or endorsing the special event;

(c) Submit a description of the special event stating all information pertinent to an understanding of the special event, including a map showing the roadways on which the special event will be held; and

(d) Submit a traffic control plan that complies with current M.U.T.C.D. standards and Oregon supplements.

(4) Traffic control, as required in the Bicycle Race Permit or Permit, shall be at the expense of the applicant. The applicant is responsible for notifying local jurisdictions, including police agencies, for their assistance before, during and after a special event. All local jurisdictions and police agency requirements must be met for ODOT to approve the special event.

(5) An applicant for a Bicycle Race Permit must comply with the current Department of Transportation "Guidelines for Administration of Bicycle Racing on Oregon Roads."

(6) A Bicycle Race Permit or a Permit may be issued when:

(a) Conditions assure reasonable safety for all special event participants, spectators and other highway users;

(b) The special event does not unreasonably interfere with traffic flow which would seriously inconvenience other highway users; and

(c) The special event or race is supported by public policy, clearly a benefit to the public, or has widespread public and local government support.

(7) Each District Manager may develop Permit Guidelines and Special Provisions that address specific traffic conditions and geographic issues for their specific areas of authority.

(8) Other Oregon Administrative Rules prohibiting specific activities will not apply when a permit is issued under this rule.

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

Stat. Auth.: ORS 184.619, 810.020, 810.030 & ORS 810.090

Stats. Implemented: ORS 810.020, 810.030 & ORS 810.090

Hist.: HWY 4-1997, f. & cert. ef. 4-23-97

734-056-0040

Cancellation of a Permit

(1) The District Manager may cancel a Bicycle Race Permit or Permit issued a special event for any reason, including, but not limited to, weather conditions, safety considerations, in emergencies (i.e., fire, accidents) or failure of the applicant to comply with the terms of the permit. Cancellation shall be issued in writing, except as provided in section (2) of this rule. Such cancellation may be cause to deny future Bicycle Race Permits or Permits for special events to the applicant.

(2) Cancellation may be verbal and shall be followed by written confirmation of the verbal cancellation.

Stat. Auth.: ORS 184.619, 810.020, 810.030 & ORS 810.090

Stats. Implemented: ORS 810.020, 810.030 & ORS 810.090

Hist.: HWY 4-1997, f. & cert. ef. 4-23-97

734-056-0050

Liability and Control

(1) An applicant shall be responsible and liable for all damage or injury to any person or property resulting from the special event for which the permit is issued. The applicant may have to provide satisfactory insurance coverage. The applicant shall indemnify and hold harmless the State of Oregon, the Commission, the Department, its

agents and employees against any and all damages, claims, demands, actions, causes of action, costs and expenses.

(2) Signs not conforming to M.U.T.C.D. with Oregon supplements or from the Department Sign Policy and Guidelines for the State Highway System are unauthorized upon any portion of the right-of-way. When traffic control is required by the District Manager to provide warning of the bicycle race or special event such signs shall be placed and maintained at the cost of the applicant in compliance with M.U.T.C.D. or authorized traffic control plan.

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

Stat. Auth.: ORS 184.619, 810.020, 810.030 & ORS 810.090

Stats. Implemented: ORS 810.020, 810.030 & ORS 810.090

Hist.: HWY 4-1997, f. & cert. ef. 4-23-97

DIVISION 57

PERMITS FOR DEVELOPMENT ON HIGHWAY RIGHT-OF-WAY

734-057-0010

City/County Entrance Program

(1) Cities, counties and unincorporated communities as identified in the county comprehensive plan defined in ORS 197.015, are permitted to develop and maintain a landscaped area within the state highway right of way to enhance the aesthetic value along state highways and to welcome motorists to a city, county or unincorporated community.

(2) One landscaped area will be allowed at each entrance of a state highway into a city, county or unincorporated community. The area may include a marker that indicates motorists are entering, or welcomes them to, a city, county or unincorporated community.

(3) The request by a city or county to develop a landscaped area:

(a) Shall be in writing, on official letterhead accompanied by a Department of Transportation permit application, Form 734-3457. Such form is available from the District manager of the Department of Transportation;

(b) Shall include a site plan; and

(c) Shall be submitted to the appropriate District Manager of the Department of Transportation for review and approval. In order to facilitate site review, the District manager may require the city or county to place markings such as lath stakes or other markings at the location of the proposed area to be landscaped.

(4) The request for an unincorporated community to develop a landscaped area must be submitted by the county.

(5) The landscaped area and marker shall conform to the following guidelines:

(a) The landscaped area must be within or as near as safely can be accommodated to the territorial or zoning jurisdiction of the city, county or unincorporated community;

(b) The landscaped area and marker must be located so that it is not a roadside safety hazard nor restricts sight distance and must conform to all applicable highway clear zone requirements;

(c) The landscaped area and marker must have Federal Highway Administration approval when located on interstate right-of-way and must not be visible from an interstate highway;

(d) The overall size of any rigid object within the landscaped area may not exceed 200 square feet;

(e) The landscaped area or marker may contain only the official name, logo and/or slogan of the city, county or unincorporated community. No advertising or other commercial message will be allowed; and

(f) The landscaped area and marker shall be constructed of a material appropriate to the location and environment.

(6) Upon approval of the request for site development, the District Manager will execute a permit to the city or county for each landscaped area. No work on highway right-of-way may begin until a valid permit has been received by the city or county.

(7) The following shall be the responsibility of the city or county:

(a) The manufacture, installation, maintenance, repair or removal of the landscaped area or marker;

(b) Relocation and/or removal of the landscaped area and/or marker as a result of highway improvement projects;

(c) The provision of traffic control in accordance with the standards adopted under ORS 810.200 by the Oregon Transportation Commission.

(8) The permit issued by the District Manager for a landscaped area may be canceled if the city or county fails to comply with the provisions of this rule or the provisions of the permit. The permit may also be canceled if the Department determines that any individual landscaping or marker, of this program violates federal or state law.

(9) Markers or signs denoting entrances to cities, counties or unincorporated communities that are to be placed outside of highway right-of-way must meet the requirement of ORS Chapter 377 and OAR chapter 734, division 60.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & ORS 374.310

Stats. Implemented: ORS 374.305 & ORS 374.310

Hist.: TO 6-1998, f. & cert. ef. 8-20-98

734-057-0020

Beautification of Highway Right of Way

(1) The purpose of this rule is to allow for the placement of decorations or banners within the state highway right-of-way, except Interstate highways, to enhance the aesthetic value of the highway. The banner or decoration must be approved by the agency with jurisdiction in the area.

(2) For use in this rule the following definitions will apply:

(a) "Agency" means an incorporated city, county or Native American Indian Tribe.

(b) "Banner(s)" includes flags and pennants made of plastic, cloth, or similar material along with the corresponding support system.

(c) "Decoration(s)" includes hanging plants and other similar ornamentation along with the corresponding support system.

(3) The request for a permit for placement of a banner or decoration:

(a) Must be in writing, on official letterhead of the agency with jurisdiction in the area. The agency may submit the request on their own or in cooperation with a sponsoring group or organization;

(b) Must be accompanied by a Department of Transportation permit application, Form 734-2576. Such form is available from the District Manager of the Department of Transportation;

(c) Must include the proposed location and a description, with a picture or drawing, of the banner(s) or decoration(s);

(d) Must be submitted to the appropriate District Manager of the Department of Transportation at least 30 days prior to the desired installation date. In order to facilitate the review, the District Manager may require markings to be placed at the location of the proposed banner or decoration installation; and

(e) Must include confirmation that the agency is self-insured. In the event the agency is not self-insured, a certificate of insurance in the amount determined by the District Manager must be provided before work may begin.

(4) The banner or decoration must conform to the following guidelines:

(a) The banner or decoration must:

(A) Be placed within the territorial or zoning jurisdiction of the agency;

(B) Be located so that it is not a roadside safety hazard nor restricts sight distance and must conform to all applicable highway clear zone requirements;

(C) Have a vertical clearance of at least 18 feet above the roadway or eight feet above a pedestrian walk way, or comply with local ordinance, whichever is greater; and

(D) Be made from a durable material, constructed to comply with local building codes or withstand wind pressure of 20 pounds per square foot of exposed surface, whichever is greater.

(b) The banner or decoration may contain the official name, logo, and/or slogan of the agency but may not portray a political, religious, commercial or promotional message and may not recognize a person, organization or event.

(c) The banner or decoration must not:

(A) Interfere with, imitate, or resemble any official traffic control device or attempt or appear to attempt to direct the movement of traffic;

(B) Prevent the driver of a motor vehicle from having a clear and unobstructed view of official traffic control devices and approaching or merging traffic;

(C) Have any lighting, unless such lighting is shielded to prevent light from being directed at the highway or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle;

(D) Be attached to any official sign, post, signal pole or any other traffic control device or support;

(E) Be suspended over or otherwise span the roadway; or

(F) Otherwise be a traffic hazard.

(5) The number and type of banner or decoration allowed will be at the direct discretion of the District Manager.

(6) Upon approval of the request, the District Manager will issue a permit to the agency for placement of a banner or decoration within the state highway right-of-way. The permit may include special provisions for installation or removal of the banner or decoration. No work on highway right of way may begin until the agency has received a valid permit.

(7) The following shall be the responsibility of the agency:

(a) The manufacture, installation, maintenance, repair or removal of the banner or decoration including placement of supports or permission to use existing utility poles;

(b) Relocation or removal of the banner or decoration as a result of highway improvement projects;

(c) The provision of traffic control in accordance with the standards adopted under ORS 810.200 by the Oregon Transportation Commission. Should Department of Transportation staff be required to review the traffic control plan, the cost of that review may be billed to the agency; and

(d) 48-hour notification to the District representative identified in the permit prior to any work on the state highway right-of-way.

(8) A sponsoring group or organization may perform the duties described in section (7) of this rule on behalf of the agency; however, the responsibility for compliance with the terms of the permit and this rule remains with the agency.

(9) The permit issued by the District Manager may be cancelled if the agency fails to comply with the provisions of the permit or this rule. The permit may also be cancelled if it is determined that the banner or decoration violates federal or state law.

(10) Banners or decorations may be removed by the Department of Transportation, at the expense of the agency, if the banner or decoration is neglected or becomes unsightly or otherwise defeats the purpose of the rule.

(11) The following are not eligible for a permit issued pursuant to this rule:

(a) Banners or decorations that denote a specific activity or event must meet the requirements of the ODOT Sign Policy 5-8.

(b) Permits for the installation or maintenance of landscape areas will be issued as part of the Adopt-A-Landscape program.

Stat. Auth.: ORS 184.616, 184.619, 366.205, 374.310 & ORS 810.030

Stats. Implemented: ORS 374.305 & ORS 374.310

Hist.: HWD 2-2003, f. & cert. ef. 10-24-03

DIVISION 59

SIGNS — GENERAL PROVISIONS

734-059-0005

Premises

For the purpose of establishing whether a sign, visible from a State Highway and regulated under ORS Chapter 377, is not an on-premise sign, the following definition shall be used:

(1) The premises on which any activity is conducted is determined by the physical facts rather than property lines. It is the land occupied by the buildings or other physical uses that are necessary or customarily incident to the activity, including such open spaces as are arranged and designed to be used in connection with such buildings or uses.

(2) Except for farms and ranches, the following will not be considered to be a part of the premises on which the activity is conducted and any signs located on such land will be considered outdoor advertising signs:

(a) Any land which is not used as an integral part of the principal activity. This would include, but is not limited to:

(A) Land which is separated from the the activity by a public road;

(B) Land which is separated by an obstruction and is not used by the activity; and

(C) Land that is undeveloped highway frontage adjacent to the land actually used by the advertised activity, even though it might be under the same ownership.

(b) Any land which is used for, or devoted to, a separate purpose unrelated to the advertised activity would not be part of the premises on which the activity is conducted even though under the same ownership;

(c) Any land which is separated from the principle activity, and is developed or used only at the sign site by structures or uses which are only incidental to the principle activity, and which serves no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for signing purposes;

(d) Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes except the major entrance or exit roadway to or from the premises which serves only the advertised activity.

Stat. Auth.: ORS 184
Stats. Implemented: ORS 377.710(24)
Hist.: HWY 1-1988, f. & cert. ef. 3-25-88

734-059-0015

Definitions

The terms “neat,” “clean,” “attractive” and “good repair” as used in ORS 377.710(18) and 377.720(8) are defined as follows:

(1) The terms “neat” and “attractive” mean without rotting or broken parts, having parts that are solid and sound, without chipping or peeling paint, paper, vinyl or plastic, and without faded, washed-out or illegible copy. The terms apply to all component parts of a sign.

(2) The term “clean” means free of dirt, unsoiled, without grime or soot. The term does not include a minor dust coating that is undetected from the main-traveled way of a state highway. The term applies to all component parts of a sign that are visible to the main-traveled way of a state highway.

(3) The term “good repair” means having sound and solid parts, without rotting or broken parts, firmly fixed in place so as to be able to withstand a wind pressure of 20 pounds per square foot of exposed surface. The term includes all component parts of a sign.

Stat. Auth.: ORS 184.616, 184.619, 377.710 & ORS 377.720
Stats. Implemented: ORS 377.710 & ORS 377.720
Hist.: TO 4-2002, f. & cert. ef. 4-15-02

734-059-0100

Outdoor Advertising Permit and Business License Fees

This rule establishes fees for outdoor advertising permits and business licenses as authorized by ORS 377.729.

(1) The fees for issuance of a permit for any sign in a year in which the sign is new, is relocated, as defined in ORS 377.710(26), or is reconstructed under ORS 377.725 are as follows:

- (a) \$125 — 25 square feet or less;
- (b) \$300 — 26 to 50 square feet;
- (c) \$500 — 51 to 400 square feet;
- (d) \$600 — 401 square feet or more.

(2) The fees for annual renewal of all sign permits issued under the authority of ORS 377.712, 377.725 and 377.726 are as follows:

- (a) \$70 — 50 square feet or less;
- (b) \$80 — 51 to 400 square feet;
- (c) \$90 — 401 square feet or more.

(3) The fees for the annual renewal of preexisting permits that remain valid under ORS 377.725 pending relocation of a sign, where the sign is not currently on location, shall be \$10. The renewal fees for permits under this subsection shall be paid by the permit owner and are due by January 2nd each year. If the renewal is mailed, it must be post marked no later than January 2nd. If the fee required by this subsection is not paid, the permit shall be canceled.

(4) The following shall be used to determine the permit fee:

(a) For a back-to-back sign, the permit sign area includes both sides of the sign.

(b) A double-faced sign or a back-to-back sign is one sign.

(c) A V-type sign is two signs.

(d) A tri-vision sign is three signs.

(e) Any mechanically operated multifaced display sign other than a tri-vision sign is the number of signs equal to the number of display faces. Nothing in this subsection authorizes mechanically operated multifaced display signs.

(5) The annual fees for outdoor advertising business licenses under ORS 377.730 are as follows:

- (a) \$500 — only erects or maintains signs;
- (b) \$375 — owns 1 to 49 signs;
- (c) \$1000 — owns 50 to 499 signs;
- (d) \$1,500 — owns 500 or more signs.

(6) The following apply to the annual renewal of a permit for a sign currently at its permitted location and issued under the authority of ORS 377.712, 377.725 or 377.726:

(a) The renewal is due by January 2nd. If a renewal is mailed, it must be post marked no later than January 2nd.

(b) A permit may be renewed within the 30-day grace period allowed by ORS 377.725(4), if a fee equal to twice the amount specified in section (2) of this rule is paid. A fee paid within the 30-day grace period must be received by ODOT or post-marked no later than February 1st.

(7) A permit that is not renewed in compliance with section (2) and (3) of this rule will be canceled. A canceled permit cannot be reinstated.

Stat. Auth.: ORS 184.616, 184.619, 377.725 & ORS 377.729
Stats. Implemented: ORS 377.712, 377.725, 377.726, 377.729 & ORS 377.730
Hist.: TO 6-2001(Temp), f. & cert. ef. 11-9-01 thru 5-7-02; TO 5-2002, f. & cert. ef. 4-15-02

734-059-0200

Maximum Civil Penalty for Violation of ORS 377.725

This rule establishes the maximum civil penalty for the violation of ORS 377.725 as authorized by ORS 377.992.

(1) The definitions found in ORS 377.710 and the definitions found in OAR chapter 734, division 059 shall apply to this rule.

(2) A person who violates ORS 377.725 is subject to a civil penalty as provided in this section. Civil penalties shall commence 31 calendar days from the date of the notice of violation beginning at 12:01 a.m. of the 31st calendar day and end with the complete correction or the complete removal of the sign either by the sign owner or by the Department at the Department’s discretion. The amount of the civil penalties for each violation shall be up to \$100 per day up to a maximum amount of \$100,000.

(3) For the purpose of section (3), the following matrix shall be used to determine the amount of the civil penalty:

(a) A \$50 penalty for each day of violation shall be imposed on first-time violators, beginning with the 31st day from the date of the notice of violation and continuing for 30 days. Thereafter, a penalty of \$100 for each day of violation shall be imposed up to a maximum of \$100,000.

(b) A \$100 penalty for each day of violation shall be imposed on repeat violators, beginning with the 31st day from the date of the notice of violation and continuing thereafter at the rate of \$100 per day up to a maximum amount of \$100,000.

(4) A repeat violator is a sign owner who violates ORS 377.725 two or more times. For the purpose of determining a repeat violator of ORS 377.725, the sign owner shall include agents or representatives of the sign owner.

(5) The Department shall follow the procedures in ORS 377.775 in notifying the owner of a non-complying sign.

(6) If the final order resulting from an administrative hearing renders the Department’s enforcement incorrect, the civil penalties of this rule shall not accrue or apply to the sign in question. If the final order resulting from an administrative hearing renders the Department’s enforcement correct, civil penalties shall commence retroactively, starting 12:01 a.m. of the 31st calendar day from the date of the Department’s notice of violation.

Stat. Auth.: ORS 184.616, 184.619 & ORS 377.992
Stat. Implemented: ORS 377.992
Hist.: TO 2-2002, f. & cert. ef. 2-19-02

DIVISION 60

SIGNS

734-060-0005

Criteria for Issuance of Permits for Business Identification Signs

(1) A business identification sign may only be erected after a permit has been obtained from the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) under the provisions of ORS 377.725. Applications may be made by contacting the DMV, Transportation Permit Unit, 2950 State Street, Salem, OR 97310, Telephone 378-2636:

(a) Location:

(A) Permits for business identification signs may be issued for signs which are visible from state highways and located on private property except:

(i) Where the sign would be visible from the interstate highway system;

(ii) Where the sign would be visible from a full control access highway; or

(iii) Where the sign would be visible from any state highway where the area adjacent to the highway is a designated scenic area.

(iv) No permit shall be issued to locate a business identification sign along any state highway designated as a scenic highway or byway unless it also complies with applicable federal scenic byway laws or regulations in effect on the date of receipt of the permit application or if the permit violates conditions of federal grants relating to scenic byways.

(B) For a sign located on private property, the written permission of the property owner must be obtained; and

(C) A business identification sign must be located within three road miles from the activity identified on the sign.

(b) Size — The maximum allowable size for business identification signs shall be 16 square feet each side, with no one panel dimension (height or length) to exceed six feet, excluding supports;

(c) Height — The top of a sign, erected under these regulations, shall not be higher than 12 feet above the highway grade or property grade, whichever is higher;

(d) Number — For any single activity or business, permits shall not be issued for more than one sign visible to each direction of travel on each highway which bypasses the activity or business. Of these allowed business identification signs, the maximum number of signs requiring a variance or a waiver for the issued permit are two;

(e) Content — The only information which may be contained on a business identification sign is the name of the activity and the direction and/or distance to the activity;

(f) Spacing:

(A) A business identification sign must be located at least 500 feet from any other permitted business identification sign which is located on the same side of the highway;

(B) A business identification sign must be located at least 500 feet from any outdoor advertising sign which is located outside the corporate boundaries of a city and on the same side of the highway; and

(C) A business identification sign must be located at least 100 feet from any outdoor advertising sign which is located within the corporate boundaries of a city and on the same side of the highway.

(g) Eligibility — Permits will be issued to only those activities located away from a state highway where the business and its on-premise and outdoor advertising signs are not visible from the state highway.

(2) Definitions — For the purpose of these regulations, unless the context requires otherwise, or unless the term is specifically defined herein, the definitions set forth in ORS 377.710 are applicable to the terms used in these regulations.

(3) Variances — The Oregon Transportation Commission, or any person delegated such authority by the Commission, may grant a variance waiving the following provisions of section (1) of this rule, if the business owner demonstrates that he will suffer economic loss or undue hardship, for:

(a) Paragraph (1)(a)(C) of this rule — Distance sign is located from the identified activity. A variance shall not permit any business identification sign to be more than 12 miles maximum distance, measured in most direct route road miles, from the activity or business identified on the sign. The business owner will be required to provide a drawing or map showing sign site location, route to, and dis-

tance from the business to the proposed business identification sign. If more than one highway bypasses the activity or business, the most direct routes will be considered for business identification signs, of which signs there will be a maximum of two requiring a variance;

(b) Subsection (1)(b) of this rule — size of sign. Variance shall not permit any business identification sign to exceed 32 square feet, each side with no one panel dimension (height or length) to exceed eight feet excluding supports. Consideration for a business identification sign size variance will apply to situations wherein:

(A) Visibility is impaired by highway curves, or topographical obstructions necessitate a sign site location some distance from the highway; or

(B) The sign site area is a high speed highway with heavy traffic.

(c) Subsection (1)(c) of this rule — Height of sign. A variance shall not permit the top of any business identification sign to be higher than 16 feet above the highway grade or property grade, whichever is higher.

(4) Waiver — A signed waiver form must be submitted with a sign permit application for a business identification sign located outside of a commercial or industrial zone. The waiver must be signed by both the sign owner and the sign site property owner agreeing to remove the sign, if required by the provisions of federal law, at their expense and without compensation for the sign to either.

(5) Signs erected under these regulations are also subject to any city or county ordinance or regulation.

(6) Removal — All signs granted permits under these rules are subject to removal in accordance with ORS 377.775.

Stat. Auth.: ORS 184.616, 377.726 & Ch. 268, OL 1993

Stats. Implemented: ORS 377.726

Hist.: 1 OTC 91(Temp), f. & ef. 10-24-77; 1 OTC 5-1978, f. & ef. 3-30-78; 1 OTC 16-1979(Temp), f. & ef. 7-19-79; 1 OTC 27-1979, f. & ef. 11-26-79; 2HD 14-1981, f. & ef. 10-2-81; HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93

734-060-0010

Criteria for Issuance of New Permits for Benches Utilized as Outdoor Advertising Signs

(1) A new permit may be issued for benches utilized for outdoor advertising signs (bench signs) and such signs may only be erected after a permit has been obtained from the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) under the provisions of ORS 377.725. Application may be made by contacting the DMV, Transportation Permit Unit, 2950 State Street, Salem, OR 97310, Telephone 378-2636:

(a) Location — New permits for bench signs may be issued for such signs which are visible from state highways and located on private property except:

(A) Where such sign would be visible from the interstate highway system;

(B) Where such sign would be visible from a full control access highway; or

(C) Where such sign would be visible from any state highway where the area adjacent to the highway is a designated scenic area.

(D) No permit shall be issued to locate a bench sign along any state highway designated as a scenic highway or byway unless it also complies with applicable federal scenic byway laws or regulations in effect on the date of receipt of the permit application or if the permit violates conditions of federal grants relating to scenic byways.

(b) Size — A maximum allowable size for a bench sign is 16 square feet and the sign shall not exceed two feet in height or eight feet in length excluding supports;

(c) Height — The top of bench signs erected under these regulations shall not be higher than four feet;

(d) Special Requirements:

(A) Bench signs shall be located in a commercial or industrial zone;

(B) Bench signs must be located inside incorporated city limits and/or urban areas;

(C) Bench signs must be located at a bus stop on a city or urban transit bus system route (a route affidavit showing all bus stops will be required prior to approval of any new permit for a bench sign);

(D) Bench signs shall not be located on state highway right of way; and

(E) Provided, however, if the state highway is routed over a city street as provided in ORS 373.020, the bench sign may be located on that portion of the city street right of way outside of the curb, or if there is no curb, outside of that portion of the right of way utilized for state highway purposes.

(e) Where bench signs are not located adjacent to a city or urban bus route or at an approved bus stop, bench signs on location prior to August 1, 1978, installed because of ignorance of the requirements of ORS 377.725 and where the owner can demonstrate that the removal would create a severe economic loss or undue hardship may remain if otherwise in compliance with ORS 377.700 to 377.780 and these regulations; and

(f) Excluded Benches — These rules and regulations do not apply to any bench signs for which outdoor advertising sign permits have already been issued.

(2) All signs subject to these regulations are also subject to the provisions of ORS 377.700 to 377.840 and to all applicable federal laws, regulations and agreements entered into by the Transportation Commission and the Federal Highway Administration. Signs erected under these regulations are also subject to any city or county ordinance or regulation.

(3) All bench signs granted permits under these rules are subject to removal in accordance with ORS 377.775.

Stat. Auth.: ORS 184.616, 377.726 & Ch. 268, OL 1993

Stats. Implemented: ORS 377.726

Hist.: 1 OTC 17-1979(Temp), f. & ef. 7-19-79; 1 OTC 26-1979, f. & ef. 10-30-79; HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93

Directional Signs

734-060-0015

Definitions

(1) "Committee" means the Permit Review Committee established pursuant to these rules.

(2) "Cross-Reader Sign" means a sign with advertising message displayed to opposing lane of traffic.

(3) "Department" means the Department of Transportation.

(4) "Directional Sign" means a sign identifying and containing directional information to one or more public places owned or operated by federal, state or local governments or one of their agencies; a sign identifying and containing directional information to publicly or privately owned natural phenomena or historic, cultural, scientific, educational and religious sites; and a sign identifying and containing directional information to areas of natural scenic beauty or areas naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(5) "Display Surface" means the area of a sign made available for the purpose of displaying the advertising or informational message.

(6) "Erect" means to construct, build, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

(7) "Federal-Aid Primary System" or "primary highway" means the system of state highways described by Section 103(b) of Title 23, United States Code, as selected and designated by the Department.

(8) "Freeway" means a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.

(9) "Governmental Unit" means the Federal Government, the state, or a city, county or other political subdivision or an agency thereof.

(10) "Director" means the Director of the Department of Transportation or his duly authorized representative.

(11) "Interstate Highway" or "Interstate System" means every state highway that is a part of the National System of Interstate and Defense Highways established pursuant to Section 103(d), Title 23, United States Code.

(12) "Maintain," "maintained," "maintaining" or "maintenance" includes painting, and routine repairs necessary to maintain the sign in a neat, clean, attractive and safe condition, and the term includes allowing to exist.

(13) "Main-Traveled Way" means the through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps.

(14) "Park Land" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(15) "Protected Area" means an area located within 660 feet of the edge of the right of way of any portion of an interstate highway constructed upon any part of right of way, the entire width of which was acquired by the State of Oregon subsequent to July 1, 1956, and which portion or segment does not traverse:

(a) A commercial or industrial zone within the boundaries of a city, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate highway is subject to municipal regulation or control; or

(b) Other areas where land use, as of September 21, 1959, is established by or pursuant to the laws of this state as industrial or commercial.

(16) "Reconstruction" means replacing a sign totally or partially destroyed, increasing its size or performing any work, except maintenance work, that alters or changes a sign authorized to exist under the provisions of ORS 377.700 to 377.840.

(17) "Regionally Known" means the attraction or activity must be known state-wide and in one or more of the adjoining states.

(18) "Rest Area" means an area established and maintained within or adjacent to a state highway right of way by or under public supervision or control for the convenience of the traveling public, and includes safety rest areas, scenic overlooks or similar roadside areas.

(19) "Secondary Highway" means any state highway other than an interstate highway or primary highway.

(20) "Scenic Area" means an area adjacent to or along a segment of a public highway that is within a federal or state park, is a site of historical significance or affords a view of unusual natural beauty, and has been established as a scenic area by the Scenic Area Board.

(21) "Sign Area" means the overall dimensions of all panels capable of displaying messages on a sign structure.

(22) "Sign Regulations for Protected Areas" means regulations applicable to signs erected within protected areas promulgated by the Department prior to, and in effect on, July 2, 1971, or amendments to such regulations promulgated by the Department.

(23) "Sign Structure" or "Structure" means the supports, uprights, braces, framework and display surfaces of a sign.

(24) "State Highway," "Highway" or "state highway system" means the entire width between the boundary lines of the right of way of every state highway, as defined by ORS 366.005, and the terms also include the interstate system and the federal-aid primary system.

(25) "Visible" means capable of being seen without visual aid by a person of normal visual acuity from the main-traveled way of any state highway.

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

Stat. Auth.: ORS 184.616, 184.619, 377.725, 377.727 & ORS 377.729

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74; TO 5-2002, f. & cert. ef. 4-15-02

734-060-0020

Scope

ORS 377.700 to 377.840 and the rules adopted pursuant thereto, apply to directional signs erected or maintained outside the right of way along state highways and visible to the traveling public from a state highway. A person may not erect or maintain directional sign visible to the traveling public from a state highway, except where permitted outside the right of way of a state highway unless it complies with the provisions of ORS 377.505 to 377.545, 377.700 to 377.840 and the rules adopted pursuant thereto. A person may not erect or maintain a directional sign on the right of way of a state highway.

Stat. Auth.: ORS 184 & ORS 377

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74; 2HD 17-1981, f. & ef. 11-24-81

734-060-0025

Permits

(1) Unless an annual permit has been issued therefor, a directional sign shall not be erected, maintained or replaced by any person.

(2) A person may apply for a permit to the director on forms furnished by the director. The permit application shall include a precise description of the sign and such other information as the director considers necessary or desirable to determine compliance with ORS 377.700 to 377.840. Upon approval of the Permit Review Committee the director shall issue a permit for a sign that complies with ORS 377.700 to 377.840. A valid permit may be transferred to another person upon written notice to the director.

(3) A permit shall not be issued for a directional sign located adjacent to an interstate highway or freeway unless the director determines that access to the sign from the interstate highway or freeway can be obtained without violating the access control line of the interstate highway or freeway.

(4) A permit shall be renewed annually on the first day of January. Application for renewal of a permit shall be filed prior to expiration of the term of the permit. If application for renewal of a permit is filed after the expiration of the term and the permit is granted, an additional fee equal to the fee specified by section (5) of this rule shall be paid.

(5) An applicant shall pay the appropriate annual fee as established in OAR 734-059-0100(1) or (2).

(6) A permit may be issued for one year. The applicable fee shall accompany the permit application. A fee shall not be prorated for a fraction of a year or be refunded if the sign is removed.

(7) A permit shall be obtained and the prescribed fee paid if the sign area is increased beyond the size for which a fee was paid or if a sign is relocated or reconstructed.

(8) The director shall cancel a permit and require removal of the sign as provided by ORS 377.775 if he finds a sign has been erected, maintained or serviced from the highway right of way at any portion of the right of way where the Department has acquired rights of access to the highway or rights of access have not accrued to the abutting property. In addition, the Department may recover from the owner of the sign or person erecting, maintaining or servicing the sign, the amount of damage to landscaping, sodding, fencing, ditching or other highway appurtenances resulting from such acts.

(9) The director may revoke a permit, unless a corrected application is filed or the sign is brought into compliance within 30 days after written notice thereof if mailed to the permittee, if he finds:

(a) The applicant has knowingly supplied materially false or misleading information in his application for a permit or renewal; or

(b) The sign covered by the permit is in violation of ORS 377.700 to 377.840.

(10) The director shall cancel a permit immediately upon a failure of a permittee to erect or maintain the sign as described by the permit application and to attach a permit tag thereto within 120 days after the date of issuance of the permit therefor.

(11) The director shall assign to every permit when issued for a direction sign a permit plate with identification number thereon and a current permit decal. The permittee shall attach the applicable permit plate with the current decal to the sign so as to be visible from the adjacent state highway. The absence of a permit plate and a current decal is prima facie evidence that the sign does not comply with ORS 377.700 to 377.840.

Stat. Auth.: ORS 184.616, 184.619, 377.725, 377.727 & ORS 377.729

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74; 2HD 17-1981, f. & ef. 11-24-81; TO 6-2001(Temp), f. & cert. ef. 11-9-01 thru 5-7-02; TO 5-2002, f. & cert. ef. 4-15-02

734-060-0030

Size

(1) Directional signs shall meet the following requirements: The maximum area shall be 150 square feet; the maximum height shall be 20 feet; and the maximum length shall be 20 feet. Dimensions and area under this rule shall be computed to include border and trim, but exclude supports.

(2) Directional signs must be rectangular in shape. No directional sign shall have any extension, cantilever or protrusion extending beyond the edge of the sign panel.

(3) The distance between the highway grade or property grade (whichever is higher) and the bottom of the sign panel shall not exceed seven feet.

(4) No portion of any directional sign shall be of garish colors such as blaze reds, oranges, chartreuse, florescent or phosphorescent.

Stat. Auth.: ORS 184 & ORS 377

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74; 2HD 17-1981, f. & ef. 11-24-81

734-060-0035

Spacing

(1) No directional sign may be located with 2,000 feet of an interchange or intersection at grade along the interstate system or other freeway measured along the interstate highway or freeway from the nearest point of the beginning or ending or pavement widening at the exit from or entrance to the main traveled ways.

(2) No directional sign may be located within 2,000 feet of a rest area, park land or scenic area.

(3) No directional sign shall be located within one mile of any other directional sign facing the same direction of travel.

(4) No more than two directional signs pertaining to the same attraction or activity and facing the same direction of travel may be erected along a single route approaching the attraction or activity.

(5) No directional signs located adjacent to the interstate system shall be located more than 75 air miles from the attraction or activity.

(6) No directional signs located adjacent to a primary or secondary highway shall be located more than 50 air miles from the attraction or activity.

(7) Directional signs located adjacent to the state highway system must observe the following spacing from legally installed outdoor advertising signs on same side of highway (Outside Incorporated Cities — Within Incorporated Cities, respectively):

(a) Interstate system: 2,000 feet — 500 feet;

(b) Freeway system: 1,000 feet — 500 feet; and

(c) Other state highways: 500 feet — 100 feet.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74

734-060-0040

Prohibited

A directional sign may not be erected or maintained if it:

(1) Interferes with, imitates or resembles any official traffic control sign, signal or device, or attempts or appears to attempt to direct the movement of traffic.

(2) Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic.

(3) Contains, includes or is illuminated by any flashing, intermittent, revolving, rotating or moving light or moves or has any animated or moving parts.

(4) Has any lighting, unless such lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a state highway, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operation thereof.

(5) Is located upon a tree, or painted or drawn upon a rock or other natural feature.

(6) Advertises or calls attention to an activity or attraction no longer carried on.

(7) Advertises activities that are illegal under any state or federal law applicable at the location of the sign or of the activities.

(8) Is not maintained in a neat, clean and attractive condition and in good repair.

(9) Is not able to withstand a wind pressure of 20 pounds per square foot of exposed surface.

(10) Is a cross-reader sign.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74

734-060-0045

Message

The message on a directional sign shall be limited to identification and name of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route number or exit numbers. Descriptive words or phrases describing the activity or its environs are prohibited. However, one standard size graphic may be placed on each sign if not prohibited by federal statutes or regulations.

Stat. Auth.: ORS 377

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74

734-060-0050**Permit Review Committee**

(1) Applications for directional sign permits shall be reviewed, approved, or denied by a five member Permit Review Committee representing:

- (a) Operations Support Section;
- (b) Traffic Engineering Section;
- (c) Communications Division;
- (d) Motor Carrier Transportation Division, Transportation Permit Unit; and
- (e) Right of Way Section.

(2) Review Procedure:

(a) Upon the receipt of a directional sign permit application and supporting information, the Permit Review Committee shall make a preliminary assessment of the application materials. The Committee may in writing request the applicant to furnish additional information relating to:

- (A) The extent of national or regional recognition of the activity;
- (B) The limits of the applicant's advertising program;
- (C) The difficulty of the traveling public in finding the activity in the absence of directional signing; and
- (D) Any matter relevant to deciding whether the application may qualify for a permit under these directional sign rules.

(b) The Committee may deny an application if the applicant refuses or fails to supply the requested information within 90 days of the date of the request, and the information is reasonably within the power of the applicant to obtain. The Committee may, upon the written request of an applicant, grant a reasonable extension of time to perform any act required in the course of an application, provided, however, that failure of the applicant or its representative to appear at any scheduled meeting or hearing without good cause therefore and without having requested in writing an extension, received by the Department no less than five days before the date of the scheduled hearing or meeting, shall result in denial and in eligibility to submit a new application for the activity until a period of one calendar year from the scheduled date of the hearing or meeting. For purposes of this section the determination of what constitutes "good cause" for failure to appear shall be subject to the standards applicable to similar determinations made under ORS 18.160;

(c) The applicant, applicant's representative or the Committee may in writing request a meeting in which the applicant or representative shall appear and offer testimony, exhibits and information on behalf of the application; and

(d) After review of the application, and a meeting if one is requested, the Committee shall issue an order recommending approval or denial of the application. Approval of at least two-thirds of the Committee is required for issuance of a permit. If the applicant is dissatisfied with the decision of the Committee, the applicant may request in writing a hearing on the application by the Director. Such hearings shall be conducted as contested case hearings under ORS 183.413 to 183.470, and will be presided over by the Director or his designated representative. The applicant shall have the burden of proving at the hearing that the activity qualifies for directional signing.

(3) Qualification Criteria: In addition to the foregoing provisions of this rule, the following criteria shall be considered in determining whether a directional sign permit shall be issued:

(a) Under ORS 377.710(8) and 377.727(9) directional signs are intended to serve the interests of the traveling public by providing directions to places of outstanding interest. Directional signs are not intended to create demand for an activity or to serve the purposes of outdoor advertising signs or on-premise signs. In determining

whether directional signing for a given activity would be in the interest of the traveling public, the following criteria shall apply:

(A) Whether the activity is located in an isolated area or in an urban or developed area where directions to the activity can easily be obtained by customary means other than directional signing;

(B) Whether outdoor advertising or on-premise signing that is available to the activity can reasonably serve the purpose of providing directions to the activity;

(C) Whether the activity is adjacent to or visible from the state highway system, or is some distance from a state highway and served by only private or local access roads;

(D) Whether there are prominent physical landmarks near the activity which can be cited or referred to in directing the public to the activity; and

(E) Whether there are any other circumstances making the activity extremely difficult or easy to find in the absence of directional signing.

(b) To be eligible for directional signing, privately owned activities must be of outstanding interest to the traveling public and must be nationally or regionally known. In making the eligibility decision, the following criteria apply:

(A) The extent of unsolicited media coverage of the activity, such as articles in magazines, newspapers, television and radio coverage;

(i) Strongest weight shall be given to coverage by nationally distributed publications and by network media of any sort including press wire services — such information shall be relevant in determining the extent of interest, and whether the attraction is "nationally or regionally known";

(ii) Strong weight shall be given to coverage by regionally distributed publications and by radio/television media which customarily reach persons in two or more states. By way of example, the Portland Oregonian and broadcast media originating in Portland shall be considered to reach two or more states. Such information shall be considered in determining whether the activity is "regionally known";

(iii) Weight shall also be given to coverage by local newspapers and broadcast media which shall be relevant for determining whether the activity is known "statewide"; and

(iv) For purposes of examining unsolicited media coverage, only coverage of the intrinsic attractive values of the activity and its regular programs will be considered — coverage of extraordinary events, such as accidents at the activity shall not be considered.

(B) The extent of paid advertisements of the activity which shall be considered as under subparagraph (3)(b)(A)(i)-(iv) of this rule;

(C) The extent of brochure, pamphlet and other materials distributed to advertise the activity;

(D) Visitor book log information, and other records, to the extent they demonstrate significant public interest and attendance, and to the extent they indicate that the activity is known nationally and/or regionally; and

(E) Any other information presented by the applicant tending to demonstrate widespread public knowledge of, and interest in, the activity.

Stat. Auth.: ORS 184.616, 184.619, 377.725, 377.727 & ORS 377.729

Stats. Implemented: ORS 377.727

Hist.: 1 OTC 28a(Temp), f. & ef. 5-6-74; 1 OTC 32, f. 8-2-74, ef. 8-25-74; 2HD 12-1981, f. & ef. 10-2-81; TO 5-2002, f. & cert. ef. 4-15-02

Portable Signs on Right of Way**734-060-0060****Portable Signs and Repeated Violations of ORS 377.650**

Any sign as defined by ORS 377.710, which is portable in nature and which has been deposited, left or displayed on a state highway in violation of ORS 377.650 may be removed and disposed of in the following manner:

(1) Five days after written notice of the violation of ORS 377.650 is mailed or 24 hours after notice is delivered in person to the person owning or controlling the portable sign, the District Manager (DM) or Assistant District Manager (Asst. DM) may have the sign removed and may charge the owner for the cost of removal and storage. The sign shall be stored for 30 days and if the sign is not claimed within 30 days, it may be sold, destroyed or otherwise disposed of.

(2) If the portable sign is determined by the DM or Asst. DM to create a traffic hazard, (e.g., signs on the paved portion of a highway or gravel shoulder, or signs placed upon state highway signs or appurtenances), the five day advance written notice need not be made but notice is to be made within 24 hours after removal.

(3) If the owner of the portable sign or person in control of the sign is not readily identified, by the sign itself or by contacting adjacent property owners, the sign may be removed immediately without notice. However, notice should be made upon subsequent identification of the sign owner.

Stat. Auth.: ORS 184 & ORS 377
Stats. Implemented: ORS 377.650
Hist.: 2HD 4-1985, f. & ef. 11-22-85

734-060-0065

Notice to a Portable Sign Owner

Notice to a portable sign owner shall include at least the following:

- (1) Statement that the sign is in violation of ORS 377.650.
- (2) The approximate location of the sign and a description of the sign.
- (3) Date the sign will be removed, or date on which the sign was removed.
- (4) Statement that the removal and storage costs are the responsibility of the owner.
- (5) Statement that sign shall be disposed of after 30 days of storage.
- (6) The cost of removal and storage.
- (7) A location of where the sign will be stored, or a person to contact concerning the storage.
- (8) A statement that the owner may remove the sign at the owner's expense prior to date of removal by the Department.
- (9) A statement that further violation will result in immediate removal without prior notification.

Stat. Auth.: ORS 184 & ORS 377
Stats. Implemented: ORS 377.650
Hist.: 2HD 4-1985, f. & ef. 11-22-85

734-060-0070

Previous Notice

If a previous notice has been given that a portable sign or other personal property violates ORS 377.650, and that sign, (a change of legend or message does not constitute a different sign), or property is again placed on a state highway, such items may be removed without further notice and stored for 30 days before further disposal. In such event notice shall be given subsequent to removal and the owner shall be given an opportunity for a hearing before the DM or Asst. DM to contest the violation and removal. The request for a hearing must be made within three working days after removal and the hearing must be held within five working days after such removal. The scope of this hearing shall be limited to whether proper prior notice was given, whether there was a subsequent violation and whether the sign or property was placed on a state highway. A written decision shall be made concerning the violation and removal procedure.

Stat. Auth.: ORS 184 & ORS 377
Stats. Implemented: ORS 377.650
Hist.: 2HD 4-1985, f. & ef. 11-22-85

734-060-0075

Removal Provisions

Signs subject to OAR 734-027-0005 through 734-027-0050 are subject to the removal provisions of those rules and ORS 377.775.

Stat. Auth.: ORS 184 & ORS 377
Stats. Implemented: ORS 377.650
Hist.: 2HD 4-1985, f. & ef. 11-22-85

Exempt Sign Rules

[ED. NOTE: If applicable Federal Regulations are not met, the permit requirements of ORS 377.700 to 377.840 do not apply to:]

734-060-0105

Signs of a Governmental Unit

(1) In order to qualify as a sign of a governmental unit the following criteria must be satisfied:

- (a) The sign must be within the territorial or zoning jurisdiction of the governmental unit;

(b) The governmental unit must have the authority to declare, expound, administer, or apply the law within the area;

(c) The governmental unit may only erect the sign, or allow it to be erected, for the purpose of carrying out an official duty or responsibility directed or authorized by law.

(2) Location — Signs permitted by this rule may be erected on private or governmental unit property adjacent to state highways, but are prohibited on state highway rights of way, except as provided in OAR 734-057-0010.

(3) Size — The maximum permissible size for signs of a governmental unit is as follows:

- (a) Overall size shall not exceed 200 square feet; and
- (b) No single dimension shall exceed 20 feet.

(4) Number — Two signs are permitted for any one governmental unit. However, existing signs, if meeting all criteria in this rule, may remain. If the limitation on number of signs will cause undue hardship, a waiver for additional signing may be granted by the Director, or authorized representative, upon application by the sign owner.

(5) The entire message must be contained on one sign. Fragmentation of messages on separate sign panels is prohibited, except existing signs erected under former OAR 734-060-0085. "Church and Civic Organization Signs" must have been in compliance with former OAR 734-060-0085 as of the effective date of this 2001 rule.

(6) Governmental unit signs must comply with the provisions of ORS 377.505 through 377.545.

(7) Signs erected under this rule are subject to the provisions of ORS 377.720 and to applicable federal requirements.

(8) No person or organization shall erect a governmental unit sign for the purposes of receiving compensation or other consideration for the act of displaying the sign, except that the Travel Information Council or a governmental unit may recover the costs for erecting and maintaining traffic control or traffic guide signs.

(9) This rule is not intended to regulate official state-highway traffic control signs or devices.

Stat. Auth.: ORS 184.616, 184.619 & 377.735
Stats. Implemented: ORS 377.735

Hist.: HWY 1-1989, f. & cert. ef. 5-2-89; TO 7-2001, f. & cert. ef. 12-13-01

734-060-0175

Temporary Signs

(1) Location — Temporary signs may be erected on private property within view of state highways, or on city or county property, subject to the approval of the controlling authority and the conditions and provisions imposed by such authority. Such signs are not permitted on state highway rights of way, on trees, utility poles, on right of way fences, right of way fence posts, natural features, in protected areas of the interstate system, in designated scenic areas or park lands. Installing signs from controlled access highway rights of way is not permitted.

(2) Size — Overall size shall not exceed 12 square feet. However, a person wishing to erect a temporary sign that exceeds 12 square feet may apply to the Department's Outdoor Advertising Control Office for a variance from the 12 square foot restriction. The Department may grant the variance for good cause shown. Good cause may include a showing that the content of the sign will not be visible to the public if the sign is 12 square feet or less, or a showing of hardship caused by the inability to use a previously-manufactured sign that complies with former size restrictions for temporary signs. A variance will not allow a sign that exceeds 32 square feet.

(3) Erection and Removal — Signs erected under this rule are subject to the following conditions:

(a) Signs must be removed within 60 days after the date of erection; and

(b) Regulations prohibit other than official traffic control signs or devices on state highway rights of way. Any temporary sign located on a state highway right of way will be removed without notice. Other non-complying signs will be removed in accordance with ORS 377.775.

(4) Signs erected under this rule are subject to the provisions of ORS 377.720 and to applicable federal requirements.

(5) No person or organization shall erect a temporary sign for the purpose of receiving compensation or other consideration for the act of displaying the sign.

Stat. Auth.: ORS 184.616, 184.619 & 377.735
 Stats. Implemented: ORS 377.735
 Hist.: HWY 1-1989, f. & cert. ef. 5-2-89; TO 7-2001, f. & cert. ef. 12-13-01

734-060-0185**Public Convenience and Safety Signs**

(1) Location — Public convenience and safety signs are permitted on private property adjacent to a state highway except as prohibited by ORS 377.505 through 377.545 and 377.770. Public convenience and safety signs shall not be placed on state highway rights of way unless approved by the Director of the Department of Transportation. Public convenience signs must be within one mile of the convenience covered by the sign.

(2) Size — The maximum permissible size for public convenience and safety signs is six square feet.

(3) Spacing and Form — Spacing for public convenience signs shall be 100 feet from another public convenience sign on the same side of the highway. Distance between public convenience signs shall be measured lineally along the state highway parallel to the highway centerline. The entire message must be contained on one sign. Fragmentation of messages on separate sign panels is prohibited.

(4) Public safety signs shall include only signs that are necessary for the safety of the public such as, but not limited to, signs with legal notices or warnings or signs warning of danger to the public. Public convenience signs shall include only signs that are necessary for guiding the public in the use of the state highway system such as, but not limited to, signs identifying motor carrier bus stops or fare zone limits of common carriers or signs identifying rest rooms or freight entrances.

(5) Signs erected under this rule are subject to the provisions of ORS 377.720 and to applicable federal requirements.

(6) Removal — Signs erected under this rule shall be removed as provided in ORS 377.775.

(7) No person or organization shall receive compensation or other consideration for the act of displaying public convenience signs.

(8) This rule is not intended to regulate, prohibit or limit official highway traffic control signs or devices.

Stat. Auth.: ORS 184.616, 184.619 and 377.735
 Stat. Imp.: ORS 377.735
 Hist.: TO 7-2001, f. & cert. ef. 12-13-01

DIVISION 62**SIGNS IDENTIFYING CULTURAL AND HISTORICAL FEATURES****734-062-0005****Applicability and Purpose**

(1) The purpose of these regulations is to establish standards for signs identifying cultural and historical features erected within highway rights-of-way to provide directional information to qualified cultural and historical features.

(2) These regulations are applicable to the Interstate System and expressways.

(3) The authority for the issuance of these rules is ORS 366.205(4) and 366.450.

Stat. Auth.: ORS 366
 Stats. Implemented: ORS 366.205 & ORS 366.450
 Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0010**Definitions**

As used in these rules the following definitions apply unless the context clearly indicates otherwise:

(1) "Engineer" means the Chief Engineer.

(2) "Qualified Cultural Feature" means a museum approved by the Engineer after consulting with the Oregon Historical Society and the Oregon Museum Association.

(3) "Qualified Historical Feature" means a district or a property currently listed in the National Register of Historic Places or designated nationally significant by the United States Department of the Interior.

(4) "Interstate System" or "interstate highway" means every state highway that is a part of a national system of interstate and

defense highways established pursuant to **Section 103(b), Title 23, United State Code**. It also includes fully controlled access freeways on the Primary and Secondary State Highway System.

(5) "Sign" means sign panels, the necessary support structure and break away devices of a size and construction necessary to conform to Interstate Highway Signing Standards.

(6) "Primary System" means all parts of the Primary State Highway System exclusive of the interstate system as defined in section (4) of this rule.

(7) "Expressway" means a primary or secondary highway which has full access control with access allowed only at interchanges or intersections.

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

(9) "Owner" means a holder of fee title or lessee.

(10) "Responsible Operator" means a person or entity other than an owner who operates a qualified historical or cultural feature.

(11) "Supplemental Sign" means a sign located on, opposite, or at the terminus of an exit ramp from the Interstate System or an exit ramp at an interchange on an expressway.

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

Stat. Auth.: ORS 366
 Stats. Implemented: ORS 366.205 & ORS 366.450
 Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0015**Criteria For Location**

(1)(a) Signs to be placed on the Interstate Highway System and expressways for qualified cultural or historical features shall conform to all requirements of the **Manual on Uniform Traffic Control Devices** as adopted by the Oregon Transportation Commission.

(b) A requirement of the Manual is a minimum available space of 800 feet from the closest existing sign. This factor may prohibit the installation of any sign. Another limiting factor is the allowable use of only two destinations on any sign, therefore, only two features may be placed on any sign.

(2) Signs for qualified cultural and historical features on the Interstate System and expressways shall not be installed until a thorough investigation by the Engineer determines that no conflict will exist with other official traffic control devices.

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

Stat. Auth.: ORS 366
 Stats. Implemented: ORS 366.205 & ORS 366.450
 Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0020**Criteria for Information Permitted**

(1) Qualified cultural and historical features that have features within a building or a restricted outdoor area shall include:

(a) Restroom facilities available and drinking water.

(b) Continuous operation at least six hours per day six days a week during its normal operating season.

(c) Licensing where required.

(d) Adequate parking accommodations.

(2) Qualified undeveloped cultural and historical features not located within buildings or a restricted outdoor area shall include:

(a) Adequate parking accommodations.

(b) An informational device to provide public knowledge of the features.

(3) Each qualified cultural and historical feature identified on a sign shall have given written assurance to the Department of its conformity with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex, or national origin, and shall not be in breach of that assurance.

(4) Notwithstanding the requirements of sections (1) and (2) of this rule, a waiver to any of those requirements may be granted by the Engineer under the provisions of OAR 734-062-0040(2).

Stat. Auth.: ORS 366
 Stats. Implemented: ORS 366.205 & ORS 366.450
 Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0025**General Provisions**

Upon selection and approval by the Department of an interchange for installation of a historical or cultural feature sign and upon approval of proper application for a permit from one or more qual-

ified cultural or historical feature owner or operator, a sign shall be erected in advance of the interchange in each direction of travel providing space is available for erection of the sign or if a sign is already erected and space is available on the existing sign.

Stat. Auth.: ORS 366
Stats. Implemented: ORS 366.205 & ORS 366.450
Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0030

State Sign Policy

(1) Qualified historical or cultural features must be located within one mile of the interchange measured by vehicle distance from the center point of the exit ramp intersection on an interchange to the nearest point of the intersection of the driveway of the feature and a public highway. However, any qualified cultural or historical feature set out in this section located within 15 miles of an interchange but more than one mile may apply to the Department for a waiver under the provisions of OAR 734-062-0040.

(2)(a) Where any qualified cultural or historical feature is not visible from any part of the exit ramp on the interstate system, a supplemental sign bearing the identification together with a directional arrow, and mileage where needed, shall be placed at the exit ramp terminus. Such supplemental signs shall be placed at such locations as will best serve the motoring public and be commensurate with traffic safety as shall be determined by the engineer.

(b) If the qualified cultural or historical feature is visible from any part of the exit ramp, it shall not be entitled to apply for a supplemental sign unless such supplemental sign is determined by the Engineer to be necessary in order to direct the traveling public to such feature in order to avoid a traffic hazard or misdirection of the traveling public because of the complexity of the particular interchange.

(3) If the qualified cultural or historical feature existing within one mile of an interchange has not applied for a permit for placement of a historical or cultural feature sign at an interchange, then an otherwise eligible cultural or historical feature which is located more than one mile but less than 15 miles from an interchange may apply for a permit. If the otherwise eligible cultural or historical feature is within 15 miles but more than one mile from interchange it must obtain a waiver as provided in OAR 734-062-0040.

Stat. Auth.: ORS 366
Stats. Implemented: ORS 366.205 & ORS 366.450
Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0035

Application and Eligibility

(1) If applications are received for any one interchange for more than the maximum allowable identifications to be placed on any one sign, only two applications shall be granted. The order of priority shall be based on the date of receipt of a properly completed application and required fee.

(2) The owner or responsible operator of a qualified historical or cultural feature must file an application for a sign on a form specified by the Department and tender the permit fee and rental for each sign for the first year. If the feature is publicly owned and operated, only the annual permit fee must be tendered. If the feature is publicly owned and privately operated as a profit making venture or if the feature is privately owned and privately operated as a profit making venture then the permit fee and the rental for the first year must be tendered for each sign.

(3) Any grant of a new or renewed permit shall entitle the owner or responsible operator to continuance of its sign for the interchange for a period of one year from the date of placement or renewal.

(4) Eligibility of a qualified cultural or historical feature for continuance of the sign may be reviewed annually before granting a renewal permit. If payment is not made for a renewal permit within 30 days after the due date, the sign may be removed.

(5) Notwithstanding section (3) of this rule, the sign of a qualified cultural or historical feature shall be removed from a panel and may be replaced by another qualified applicant for failure to comply with subsections (a), (b), or (c) of this section:

(a) If the qualified cultural or historical feature fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by OAR 734-062-0020(1) and (2),

so as to justify a finding by the Department that the business is not in substantial compliance with these regulations.

(b) If the qualified cultural or historical feature fails to open for business for more than 21 consecutive days or for more than 30 days cumulatively during any normal operating season unless the Department finds that closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances.

(c) If it fails to comply with OAR 734-062-0020(3), except in isolated instances without the knowledge of the owner, responsible operator, or manager of the feature, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur.

(6) If due to fire, accident or similar causes, a qualified cultural or historical feature becomes inoperable for an extended period of time, exceeding seven days, but not more than 90 days, its identification shall be temporarily covered or removed from all signs, but the feature shall not lose its priority, nor be required to reapply prior to the normal time for a renewal application. Further extension may be granted on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to continued placement of the identification and require a new application.

(7) Notwithstanding the fact that a qualified historical or cultural feature meets all of the other eligibility requirements of these regulations, an application may be denied by the Department if it is determined after investigation by the Engineer that adequate direction to the feature cannot be given by an allowable supplemental sign.

Stat. Auth.: ORS 366
Stats. Implemented: ORS 366.205 & ORS 366.450
Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0040

Waiver

(1) Upon request by an applicant the Department may authorize a waiver upon a showing by applicant that: for qualified cultural or historical features located within 15 miles of an interchange but more than one mile from an interchange, the feature is easily located from the interchange and no additional signs other than an authorized supplemental sign would be necessary to direct the traveling public to the feature or that adequate signing will be provided on the public road system to guide the motorist to the feature.

(2) Upon request by an applicant, the Engineer may authorize a waiver upon a showing by the applicant that the granting of such waiver will benefit the motoring public and not violate the overall intent of these regulations. The sections under which waivers may be granted are OAR 734-062-0020(1) and (2); 734-062-0030(1) and (3); and 734-062-0045(6).

(3) Procedures, Administrative Procedure Act — Any order of the Department denying an application or waiver under these rules, or for removal of a sign under these regulations, may be entered administratively without hearing, subject to requirements of ORS Chapter 183 and the administrative and judicial review as provided therein. The Department shall notify applicants promptly on any application or waiver denial or decision to remove a sign under these regulations.

Stat. Auth.: ORS 366
Stats. Implemented: ORS 366.205 & ORS 366.450
Hist.: 2HD 5-1983, f. & ef. 1-20-83

734-062-0045

Fees and Installation

(1) The Department may furnish, erect, and maintain all signs that have been approved for installation.

(2) The Department shall notify applicant promptly when a permit application has been approved.

(3) Fees. The annual permit fee for each cultural or historical feature sign shall be \$150 payable with the application or any renewal application. A separate \$150 permit fee shall be paid for each supplemental sign.

(4) Subject to OAR 734-062-0035(2), in addition to the permit fee, a rental fee of \$120 per year for each cultural or historical feature sign including supplemental signs, shall be paid annually. The initial rental fee must be submitted with the application. The appli-

cant shall be notified when the tourist oriented directional sign is installed.

(5) In case of removal of a sign or supplemental sign, the rental fee for any months or major portion (16 days or more) of a month remaining to the anniversary of the date of placement of the sign shall be refunded. There shall be no refund of rental for any sign temporarily removed or covered.

(6) Notwithstanding section (4) of this rule, if a qualified cultural or historical feature is publicly owned and operated or has been awarded **501(c)(3)** designation by the United States Internal Revenue Service, only the annual permit fee must be tendered.

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

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.205 & ORS 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; 2HD 11-1983, f. & ef. 4-20-83

734-062-0050

Temporary Removal and Reinstallation Fees

After the initial installation of any qualified cultural or historical feature sign, a \$25 fee shall be charged for:

(1) Temporary removal because of temporary or seasonal closure of the qualified cultural or historical feature.

(2) Reinstallation of any qualified cultural or historical feature sign pursuant to section (1) of this rule.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.205 & ORS 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83

DIVISION 63

RELOCATING OUTDOOR ADVERTISING SIGNS ON A SCENIC BYWAY

734-063-0005

Relocating Outdoor Advertising Signs on a Scenic Byway

For the purpose of insuring that Oregon does not violate any federal scenic byway laws resulting in the loss of federal funding for its scenic byways:

(1) No permit shall be issued to relocate an outdoor advertising sign to be visible to any portion of US 101, a designated scenic byway, unless it complies with federal scenic byway laws, federal regulations or conditions of federal grants relating to scenic byways.

(2) All signs maintained and reconstructed under these regulations are also subject to the provisions of ORS 377.700 to 377.840 and to all applicable federal laws, regulations and agreements entered into by the Transportation Commission and the Federal Highway Administration. Signs maintained and reconstructed under these regulations are also subject to any city or county ordinance or regulation.

Stat. Auth.: ORS 184.616, 377.726 & Ch. 268, OL 1993

Stats. Implemented: ORS 377.727

Hist.: HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93

DIVISION 65

ADVERTISING SIGNS ATTACHED TO BUS SHELTERS

734-065-0005

Scope

Chapter 308, Oregon Laws 1981 (Senate Bill 934) directs the Oregon Transportation Commission to establish, by Administrative Rule, regulations and criteria for permits authorizing the placement of advertising signs on bus waiting shelters.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0010

Bus Waiting Shelters

For the purposes of this rule, bus waiting shelters are defined as shelter-type structures erected and maintained for a mass transit district, transportation district or any other public transportation agency for the use and convenience of the customers of said district or agency and will hereinafter be referred to as shelters.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0015

Construction of Bus Shelters

These rules do *not* grant authority to construct or maintain bus shelters but, pertain solely to the placement of advertising signs on said shelters visible from a state highway.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0020

Sign Location

(1) Signs cannot be located on state highway right-of-way.

(2) Signs must be installed so that they are not designed to be primarily visible from the traveled lanes of interstate highways nor a full-control access highways.

(3) Signs cannot be visible from the traveled lanes of any state highway in a designated scenic area.

(4) The shelter on which a sign is placed must be located within a zoned commercial or industrial area or on a city street right-of-way adjoining a commercial or industrial zone.

(5) Not more than one sign visible from the traveled lanes of the highway shall be placed on a shelter.

(6) No permit shall be issued to locate a bus shelter sign along any state highway designated as a scenic highway or byway unless it also complies with applicable federal scenic byway laws or regulations in effect on the date of receipt of the permit application or if the permit violates conditions of federal grants relating to scenic byways.

Stat. Auth.: ORS 184.616, 377.726 & Ch. 268, OL 1993

Stats. Implemented: ORS 377.726 & ORS 377.767

Hist.: 2 HD 19-1981, f. & ef. 11-24-81; HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93

734-065-0025

Size and Construction of Sign

(1) Notwithstanding ORS 377.745, advertising signs attached to bus shelters shall not exceed 16 square feet for a single faced sign or 32 square feet for a back-to-back sign.

(2) A back-to-back sign is a sign with advertising copy mounted on a single sign structure so as to be visible to traffic from opposite directions of travel.

(3) A back-to-back sign shall be considered one sign.

(4) The distance between advertising panels placed back-to-back shall not exceed one foot.

(5) A single faced sign is a sign with advertising copy only on one side of the sign structure.

(6) No portion of the sign shall extend beyond the outer edges of the shelter.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0030

Permit Fee

(1) An applicant shall pay an annual permit fee of:

(a) \$10 — For sign area up to 50 square feet;

(b) \$15 — For sign area over 50 square feet.

(2) The fee shall accompany the permit application. A fee shall not be prorated for a fraction of a year or be refunded if the sign is removed.

(3) Permits are issued for one year and shall be renewed annually on the first day of January. Application for renewal shall be received prior to the expiration of the permit. If received after the expiration date, the permit shall be renewed at double the permit fee.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0035

Spacing

For the purpose of determining the spacing, the distance shall be measured lineally along the highway and parallel to the centerline of the highway:

(1) Minimum spacing shall be:

(a) Within the corporate boundaries of a city, 100 feet from any outdoor advertising sign located on the same side of the highway.

(b) Outside the corporate boundaries of a city, 500 feet from any outdoor advertising sign located on the same side of the highway.

(2) If the state highway is routed over a city street (as provided in ORS 373.020) a bus shelter sign may be located on that portion of the city street right-of-way outside of the curb; or, if there is no curb, outside of that portion of the right-of-way utilized for state highway purposes.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0040

Compliance

All signs subject to these regulations are also subject to the provisions of ORS 377.700 to 377.840 and to all applicable federal laws, regulations and agreements entered into by the Transportation Commission and the Federal Highway Administration. Signs erected under these regulations are also subject to any city or county ordinance or regulation.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0045

Upon Written Request by the Sign Owner

The Chief Engineer may grant a variance from the size restrictions of OAR 734-065-0025(1) not to exceed:

(1) 32 square feet, one side;

(2) 64 square feet, back-to-back.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

734-065-0050

Removal

All signs granted permits under these rules are subject to removal in accordance with ORS 377.775.

Stat. Auth.: ORS 377.726

Stats. Implemented: ORS 377.726

Hist.: 2 HD 19-1981, f. & ef. 11-24-81

DIVISION 70

VEHICLE WEIGHT AND DIMENSION LIMITS - PERMITS

734-070-0005

Scope

(1) Operating under special permits issued by the Department of Transportation pursuant to other rules, many overdimensional vehicles or loads travel on state highways. Such permits may be valid for up to a one-year period, authorize dimensions considerably in excess of those established by statute, and include a route system consisting of a major portion of the state highway system.

(2) Not infrequently, a situation or condition arises which makes it unsafe, impractical, or, at times, impossible for an overdimensional vehicle or load to travel over a given highway or section thereof. Such situations or conditions are usually caused by highway construction or repair projects or other local traffic conditions. The purpose of this rule is to provide a means of coping with such situations.

Stat. Auth.: ORS 184 & ORS 818

Stats. Implemented: ORS 818.220

Hist.: 1 OTC 20-1979(Temp), f. & ef. 9-20-79; 1 OTC 8-1980, f. & ef. 3-28-80

734-070-0010

Authorization of Chief Engineer

(1) The Chief Engineer is authorized to impose time of travel restrictions, to halt the movement of overdimensional vehicles and loads, or to impose other restrictions which alter, rescind, or are in addition to those established under other rules and pertain to the movement of overdimensional vehicles, combinations of vehicles, or loads on state highways. In exercising such authority, the Chief Engineer may impose such restrictions as may be necessary in his judgment to protect the safety and convenience of the traveling public, to protect any highway or section thereof from damage, to avoid

conflict with highway construction or repair projects, or to cope with other local traffic conditions.

(2) Any directive or restriction imposed by the Chief Engineer under this authority shall be in the form of a written order signed by him.

(3) Signs giving notice of the restrictions or limitations contained in the order shall be posted at each end of the highway or section of highway affected. Such restrictions or limitations shall be effective when the signs giving notice of them are posted.

Stat. Auth.: ORS 183 & ORS 818

Stats. Implemented: ORS 818.220

Hist.: 1 OTC 20-1979(Temp), f. & ef. 9-20-79; 1 OTC 8-1980, f. & ef. 3-28-80

734-070-0020

Test Run and Exception

In order to determine whether or not a vehicle or combination of vehicles is approved to traverse a length-restricted highway, or section(s) thereof, the Department, upon request from an interested party, will conduct an evaluation of the proposed operation. The evaluation will include research of Department files to determine whether or not a previous test run for the proposed operation has been conducted. If Department records indicate that a previous test run has been conducted for the length of combination requested, and there have been no improvements to the highway since the previous test run, results of the previous test run will be used. If there have been no previous test runs for the proposed operation, the Department will coordinate with the requesting party and conduct a test run and evaluation as follows:

(1) The test run vehicle(s) will be provided by the requesting party and be equal to or greater in length than the vehicle(s) in the proposed operation.

(2) The Department will issue a single trip variance permit for the test run vehicle(s).

(3) During the test run, Department staff will precede and follow the test vehicle(s) to observe vehicle operability and gather data used by the Department to determine if:

(a) The vehicle(s) maintained its lane of travel;

(b) The vehicle's steering axle crossed the center line and the rear axle crossed the fog line at the same time. If so, how many times and at what locations; and

(c) The vehicle either maintained the appropriate highway speed, or there was adequate sight distance for trailing vehicles to pass the test vehicle(s), or there was enough room for the test vehicle(s) to pull off the roadway to allow trailing traffic to pass.

(4) In addition to a review of the information listed in section (3), the test run evaluation will also consider:

(a) The average daily traffic flow on the highway;

(b) The accident rate on the highway;

(c) Pavement and shoulder conditions; and

(d) Any information from the District Manager regarding proposed improvements or any peculiarities associated with the highway.

(5) All information gathered in sections (3) and (4) is analyzed collectively by the Department to reach an initial determination concerning whether the highway or highway segment can safely accommodate greater vehicle length. For example: Information that the test vehicle does not always maintain its lane of travel may not necessarily result in a recommendation to deny a request; whereas if considered with information that the highway in question is heavily traveled, has deteriorating shoulders and has a history of many accidents, a reasonable recommendation would be to deny the request.

(6) If the evaluation results in an initial determination that the highway can safely accommodate the greater length, Department staff provides the evaluation and makes a recommendation of approval to the Chief Engineer, or the Chief Engineer's designee, the Deputy Director of the Motor Carrier Transportation Division (MCTD). If the Chief Engineer or Deputy Director of MCTD agrees with the recommendation, the Chief Engineer or Deputy Director of MCTD will issue an authorization letter approving the proposal. A variance permit may be required for the approved operation.

(7) If the evaluation results in a recommendation to not allow the proposed operation, the requesting party or the Department may ask for further evaluation. The Chief Engineer will formulate a multi-discipline team to perform a detailed investigation of the proposed operation and provide further evaluation that may include:

- (a) A more detailed analysis of average daily traffic, including traffic peak hours and volumes;
- (b) Road and shoulder width;
- (c) Review of the test run data, including any photographs or video tape;
- (d) Truck volume compared to total traffic volume;
- (e) Over-length truck volume compared to total traffic volume;
- (f) Stopping sight distance for legal speed;
- (g) Cost of spot improvements and facility improvements;
- (h) Accident history for highway or other similar highways; and
- (i) Potential risk of two trucks, or a truck and automobile, meeting in a tight spot.

(8) If additional investigation as described in section (7) indicates that the determination and recommendation made after the initial test run procedure is mitigated or modified after consideration of one or more of the additional factors, and the expert opinion of the multi-disciplined team results in a conclusion that the highway can safely accommodate the longer vehicle(s) and that the proposed operation can be conducted safely, the approval process described in section (6) will follow. If additional investigation results in a conclusion that the highway cannot safely accommodate the longer vehicle(s), no further evaluation will be conducted unless improvements are made to the highway and a subsequent request is made.

Stat. Auth.: ORS 184.616, 184.619, 810.060 & ORS 818.200

Stats. Implemented: ORS 810.060 & ORS 818.220

Hist.: TO 7-2002(Temp), f. & cert. ef. 7-24-02 thru 1-19-03; TO 9-2002, f. & cert. ef. 12-13-02

734-070-0025

Permits Issued by a Third Party Agent

The Department may enter into an agreement with any third party for the purpose of issuing approved overweight and overdimensional permits.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: TO 1-1998, f. & cert. ef. 2-24-98

734-070-0035

Permit Fees

(1) The Department shall charge a fee of \$8 for each permit issued by the Department under ORS 818.200.

(2) The Department shall charge a fee of \$2 for each permit issued by a third party agent. The \$2 fee shall be collected by the private contractor and remitted to the Department.

(3) Approved permits issued by a third party agent may include an administrative fee to be retained by the agent as authorized by ORS 818.270 not to exceed \$5 for each permit issued to a vehicle in addition to the \$2 fee charged by the Department.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.270

Stats. Implemented: ORS 818.200, 818.220 & ORS 818.270

Hist.: TO 1-1998, f. & cert. ef. 2-24-98; TO 9-2000, f. 12-15-00, cert. ef. 1-1-01

734-070-0060

Pilot Vehicle Operator Traffic Control

(1) Movement of certain oversize loads may require traffic stoppage or other traffic control methods to provide for safe passage of the load. In specified areas where conditions may require traffic control to ensure safe operations with minimal delay to the traveling public, a pilot vehicle operator, certified in traffic control, may direct traffic flow.

(2) Variance permits shall specify required procedures and areas where traffic control by a certified pilot vehicle operator is allowed in lieu of certified flagging.

(3) A pilot vehicle operator must be certified to direct traffic as described in section (1) of this rule. All of the following apply to pilot vehicle operator traffic control certification:

- (a) A pilot vehicle operator must attend and satisfactorily complete ODOT training related to directing traffic flow;
- (b) The training shall include procedures that provide a process to close a section of highway for the safe passage of an oversize load;
- (c) Successful completion of refresher training is required every three years after initial certification; and
- (d) Proof of certification must be carried, and made available upon request by law enforcement, when conducting operations under this rule.

(4) When operations are conducted as specified in section (1) of this rule:

- (a) At a minimum, a front and rear pilot vehicle are required;
- (b) The pilot vehicle designated as lead pilot vehicle shall be equipped with a sign that reads "STOP AHEAD." The "STOP AHEAD" sign (number OW21-1 in the ODOT "Sign Policy & Guidelines for the State Highway System," which is available from the Department) shall be:

- (A) Mounted above the roofline of the pilot vehicle;
- (B) Constructed to ODOT specifications for Type Y5 signs;
- (C) Kept clean, legible and mounted adequately to afford full view to oncoming traffic; and
- (D) Displayed only during operations conducted pursuant to this rule.

(c) The pilot vehicle designated as rear pilot vehicle shall be equipped to stop oncoming traffic using a handheld stop/slow paddle that is a minimum of 18 inches across; and:

- (A) Has internal lighting as listed on the ODOT qualified product list, which is available from the Department; or
- (B) Is faced with wide angle prismatic sheeting.

(d) Spacing interval requirements are not applicable to operations conducted under this rule; and

(e) When the oversize load movement through the specified area is completed, the pilot vehicles shall resume their normal signage and positioning.

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

Stat. Auth.: ORS 184.616, ORS 184.619, 810.050 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: TO 5-2000, f. & cert. ef. 4-28-00

Continuous Operation Variance Permits

734-070-0100

Purpose

The Department of Transportation is required by ORS 818.205 to establish a program for issuing continuous operation variance permits that would allow a person to obtain one permit that is valid for every participating jurisdiction in which the person will travel. A road authority that does not participate may not issue a continuous operation variance permit offered by this program. The purpose of OAR 734-070-0100 through 734-070-0140 is to provide conditions for participation, program guidelines, and specify responsibilities, liabilities and fees of participants in the Continuous Operation Variance Permit Program.

Stat. Auth.: ORS 184.616, 184.619, 818.205 & ORS 818.220

Stats. Implemented: ORS 818.200, 818.205 & ORS 818.220

Hist.: TO 6-2000, f. 6-12-00, cert. ef. 7-1-00

734-070-0110

Definitions

The following definitions apply to the Continuous Operation Variance Permit (COVP) Program:

(1) "Agent" means a participating road authority or private contractor authorized by ODOT to issue permits for other jurisdictions participating in the COVP Program.

(2) "Annual permit" means a continuous operation variance permit that is valid for 12 months.

(3) "Authorized combination" means two or more vehicles coupled together that exceed the maximum allowable size or weight by ordinance, statute or rule and may be issued a variance permit to operate.

(4) "Authorized roads" means those public roadways on which a road authority allows authorized combinations to travel.

(5) "Continuous trip permit" or "continuous operation variance permit" means a variance permit issued under a COVP Program agreement to allow unlimited movements, for specified time periods not to exceed one year, for authorized combinations over authorized roads under the agreement.

(6) "COVP Program" means the Continuous Operation Variance Permit Program.

(7) "Department" means the Oregon Department of Transportation (ODOT).

(8) "Hostfax agreement" means an agreement between ODOT and a participating road authority providing that the road authority will maintain a dedicated fax line allowing ODOT continual fax access.

(9) "Local permit" means a variance permit covering operations contained solely within the jurisdiction of a single road authority.

(10) "MCTD" means the Motor Carrier Transportation Division of ODOT.

(11) "Participation" means a road authority has entered into an agreement with ODOT to allow jointly authorized annual or continuous trip permits for authorized roads in its jurisdiction(s). Participation is further distinguished by the responsibilities established in the agreement, designated by the following levels:

(a) Level 1 — Road authority agrees to participate by authorizing the Department or its agents to issue continuous operation variance permits covered by this program on behalf of the road authority;

(b) Level 2 — In addition to Level 1 participation, the road authority agrees to retain authority to issue continuous operation variance permits covered by this program for operations under the road authority's jurisdiction; or

(c) Level 3 — In addition to Level 1 and Level 2 participation, the road authority agrees to issue continuous operation variance permits covered by this program for operations in other participating jurisdictions as an agent of the Department.

(12) "Permit fee" means the total fee charged for a continuous trip permit by all road authorities included on the permit.

(13) "Road authority" has the same meaning provided in ORS 801.445.

Stat. Auth.: ORS 184.616, 184.619, ORS 818.205 & ORS 818.220
Stats. Implemented: ORS 818.200, 818.205 & ORS 818.220
Hist.: TO 6-2000, f. 6-12-00, cert. ef. 7-1-00

734-070-0120 Participation

Each road authority choosing to participate in the COVP Program shall enter into an agreement with the Department indicating the road authority's level of participation. Further, each participant shall:

- (1) Provide MCTD with an electronic mail address;
- (2) Maintain a current "Hostfax" agreement with MCTD;
- (3) Provide MCTD with an authorized permit fee schedule;
- (4) Provide MCTD with at least 30 days notice to terminate participation or to change the level of participation; and
- (5) Provide MCTD with updated road restrictions as conditions dictate, emergency road restriction notices as soon as is practical and any revisions to a participant's route maps.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 818.205 and ORS 818.220
Stats. Implemented: ORS 818.200, 818.205 & ORS 818.220
Hist.: TO 6-2000, f. 6-12-00, cert. ef. 7-1-00

734-070-0130 Permit Issuance

Each Level 3 participant shall enter into an agreement with the Department to issue continuous trip permits covered by this program. The agreement will provide conditions under which permits shall be issued and provide that:

(1) The participant shall act as an agent for MCTD in the issuance of continuous operation variance permits covered by this program;

(2) MCTD shall provide participant electronic access to the MCTD database for use in issuing continuous operation variance permits;

(3) Participant shall ensure the security of the database and shall only use the database to perform functions applicable to issuance of continuous operation variance permits;

(4) The participant shall use the same permit language and all applicable maps and attachments as provided by ODOT; and

(5) MCTD is the owner of all work product produced under the program.

Stat. Auth.: ORS 184.616, 184.619, 818.205 & ORS 818.220
Stats. Implemented: ORS 818.200, 818.205 & ORS 818.220
Hist.: TO 6-2000, f. 6-12-00, cert. ef. 7-1-00; TO 1-2001, f. & cert. ef. 2-16-01

734-070-0140 Permit Fees

(1) Each participating road authority shall provide the Department with a schedule of fees established by the road authority's governing body for permits in the road authority's jurisdiction. Notice of any change in the road authority fee schedule shall be given to the

Department in writing at least 120 days in advance of the effective date of the change.

(2) Oregon Department of Transportation permit fees for the purpose of this rule shall be \$3.00 for permits issued by an agent.

(3) Except as provided in section (2) of this rule, fees charged for permits under this program shall be \$8.00 for each jurisdiction included on the permit unless a different amount is specified in the following listing for a specific jurisdiction:

- (a) Clatsop County, \$2.75;
- (b) Douglas County, \$5.75;
- (c) Harney County, \$2.75;
- (d) Klamath County, \$2.75;
- (e) Umatilla County, \$7.50;
- (f) Wallowa County, \$2.75.

(4) The permit fees established in section (3) of this rule are individually subject to a reduction of \$2.75 if the permit is issued by an agent under contract with ODOT to issue and distribute continuous operation variance permits. If the issuing agent is a road authority, the permit fee for that road authority is not subject to the reduction.

(5) The Department shall contract with participating road authorities and private contractors to provide services necessary to issue and distribute continuous operation variance permits under this program.

(6) For Level 1 and Level 2 participation, the Department shall forward the road authority's portion of the permit fee to the road authority each month.

(7) For Level 3 participation, the road authority will retain its portion of the permit fees collected and forward to ODOT the permit fees collected for other road authorities as indicated on a monthly transmittal provided by ODOT.

Stat. Auth.: ORS 184.616, 184.619, 818.205 & ORS 818.220
Stats. Implemented: ORS 818.200, 818.205, 818.220 & ORS 818.270
Hist.: TO 6-2000, f. 6-12-00, cert. ef. 7-1-00; TO 1-2001, f. & cert. ef. 2-16-01; TO 3-2001, f. 7-18-01, cert. ef. 8-1-01

DIVISION 71

LENGTHS OF VEHICLES, LOADS, AND COMBINATIONS OF VEHICLES IN OPERATION WITHOUT NEED OF SPECIAL PERMIT

[ED. NOTE: Administrative Orders HC 1150, HC 1193, 1 OTC 61, and 1 OTC 73 were superseded by 1 OTC 5-1980.]

734-071-0005 Scope

(1) Oregon's statutes are basically quite restrictive in establishing length of vehicles, loads, and combinations of vehicles. The lengths established are for those vehicles or combinations which can be operated safely upon any highway including older highways not reconstructed to present day standards.

(2) Nearly all of the state highway system can safely accommodate vehicles and combinations with lengths in excess of those established under the basic statutes. The statutes recognize this by allowing longer lengths on designated highways subject to special permits issued pursuant to ORS Chapters 810 and 818 or under the authority of administrative rules adopted by the Oregon Department of Transportation.

(3) OAR 734-071-0005 through 734-071-0030 do not apply to vehicles authorized by the Surface Transportation Assistance Act of 1982 when operating on National Network Highways or highways where reasonable access beyond one mile has been granted. These vehicles are authorized by OAR chapter 734, divisions 73 and 74.

(4) OAR 734-071-0005 through 734-071-0030 do not apply to vehicles licensed, or which can be used as recreational vehicles as defined by ORS 446.003(36), or to any combination of more than two vehicles not used exclusively for commercial purposes and subject to ORS chapter 823 and 825.

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & ORS 818.200
Stats. Implemented: ORS 810.060
Hist.: 1 OTC 5-1980, f. & ef. 3-27-80; 2HD 8-1983, f. & ef. 3-30-83; HWY 2-1995, f. & cert. ef. 10-16-95; HWY 5-1997, f. & cert. ef. 5-9-97; HWD 1-2003, f. & cert. ef. 8-21-03

734-071-0010**Designated Highways and Definitions**

(1) The types of vehicles, combinations of vehicles, or loads listed in **Table 1** may operate without special permit upon Group 1, Group 2 and Group 3 highways as shown on Group Map 1 as published by the Department when the dimensions do not exceed those listed in Table 1 for the corresponding highway group. Group Map 1, revised November 2001 is adopted by reference and made a part of division 71 rules.

(2) Definitions for the purpose of division 71 rules:

(a) "Auxiliary axle" is an axle that qualifies as a booster axle, flip axle or lift axle;

(b) "Booster axle" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning;

(c) "Dromedary truck-tractor" means a motor vehicle having more than 15,000 pounds GVWR designed to carry a load on a dromedary box, plate or deck, not exceeding 12'06" in length inclusive of load and designed to pull a semitrailer;

(d) "Flip axle" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed position on the ground extending the length and hauling capacity of the trailer;

(e) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298;

(f) "Lift axle" means an axle that can be raised from or lowered to the surface of the ground;

(g) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation;

(h) "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers, and having more than 15,000 pounds GVWR;

(i) "Overall length" includes the vehicle or combination of vehicles and any load overhangs. Overall length does not include a:

(A) Small fork lift (commonly known as a "spyder") designed to be attached to a semitrailer, which is used exclusively for the loading and unloading of the semitrailer. For purposes of this rule any attachment bracket used to secure the fork lift not in excess of 24 inches shall be excluded from the semitrailer length measurement provided it carries no load other than the fork lift. This fork lift may be attached to the rear of a semitrailer and not be included in determining overall length if:

(i) In a truck tractor and semitrailer combination the fork lift, including attachment brackets, does not extend beyond the rear of the semitrailer by more than seven feet, does not cause the overall length of the semitrailer including fork lift and attachment brackets to exceed 56 feet and does not cause rear overhang to exceed one-third of the wheelbase of the combination;

(ii) In a truck tractor, semitrailer and trailer combination, or truck-tractor, semitrailer and semitrailer combination (B train), the fork lift is attached to the rear of the lead semitrailer or to the rear of the second trailer providing the fork lift does not extend beyond the rear of the semitrailer or trailer by more than seven feet including attachment brackets. The semitrailer or trailer length, inclusive of the forklift, shall not exceed 40 feet. The distance between the front of the first semitrailer and the rear of the second semitrailer or trailer, inclusive of the fork lift, shall not exceed 68 feet. The longer of the two trailers, inclusive of the fork lift, shall be placed ahead of the shorter of the two trailers.

(B) Motor attached to the front of a concrete mixer truck manufactured prior to January 1, 2000, that is used to turn the mixer drum, including a protective bumper for the motor, that does not exceed four feet in length from the foremost point of the vehicle exclusive of the motor and protective bumper; or

(C) Pump attached to the front of a concrete pump truck manufactured prior to January 1, 2000, including a protective bumper for the pump, that does not exceed two feet in length from the foremost point of the vehicle exclusive of the pump and protective bumper.

(j) "Passenger vehicle" or "light vehicle" means a motor vehicle, regardless of design or intended use, having 15,000 pounds or less GVWR;

(k) "Pickup truck" means a motor vehicle designed to carry passengers and to carry a load, having 15,000 pounds or less GVWR and

which shall not tow more than one vehicle, except as provided in OAR 734-071-0030(2);

(l) "Stinger-steered" is as defined in ORS 801.507; and

(m) "Truck-tractor" means a motor vehicle designed and used primarily for drawing (towing) other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn and having more than 15,000 pounds GVWR.

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

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & 818.200

Stats. Implemented: ORS 810.060, 818.200 & ORS 818.220

Hist.: 1 OTC 5-1980, f. & ef. 3-27-80; 2HD 5-1982(Temp), f. & ef. 10-5-82; 2HD 8-1983, f. & ef. 3-30-83; HWY 3-1993(Temp), f. & cert. ef. 7-13-93, HWY 3-1994(Temp), f. 5-19-94, cert. ef. 5-20-94; HWY 2-1995, f. & cert. ef. 10-16-95; HWY 5-1997, f. & cert. ef. 5-9-97; TO 5-1998, f. & cert. ef. 4-16-98; TO 2-2001, f. & cert. ef. 6-14-01; TO 10-2002, f. & cert. ef. 12-13-02; HWD 1-2003, f. & cert. ef. 8-21-03

734-071-0015**Possible Reclassification of Highways Due to Improvements**

Improvements may be made to some of the Group 2 and Group 3 highways indicated on Group Map 1. Those improvements may make it appropriate to reclassify the highway or section of highway to a higher group rating which would allow vehicles or combinations of greater dimension. In this respect the Chief Engineer is authorized to reclassify the group rating of such highways as he may consider appropriate when, in his judgment, such a reclassification would not diminish the safety afforded the traveling public. Such reclassification shall be made by a written order signed by the Chief Engineer.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 810.060

Hist.: 1 OTC 5-1980, f. & ef. 3-27-80; HWY 2-1995, f. & cert. ef. 10-16-95

734-071-0030**Equipment Requirements**

(1) In vehicle combinations featuring more than one trailer or semitrailer, the shortest trailer shall be positioned to the rear of the combination, except that a motor carrier may position the shortest trailer at the front when it is more than 1,500 pounds heavier than the other trailer or semitrailer.

(2) A tow dolly, designed to support one axle of a towed vehicle, may be utilized when one vehicle is towing another. The towing vehicle must be a full size motor vehicle (e.g., truck, motor home, automobile or pickup). Compact or subcompact motor vehicles shall not be used. It is recommended that the vehicle being towed not exceed the weight limitations recommended by the tow dolly manufacturer.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 810.060

Hist.: HWY 2-1995, f. & cert. ef. 10-16-95

734-071-0040**56-Foot Semitrailers in Combinations**

In a truck-tractor and semitrailer combination, the semitrailer may be up to 56 feet in length if the distance between the kingpin setting and the centerline of the rearmost axle of the semitrailer does not exceed 46 feet and the gross combination weight does not exceed 80,000 pounds and the semitrailer is used exclusively or primarily to transport vehicles in connection with motor sports competition events. These combinations shall not be stinger-steered and will be limited to the Oregon Interstate Highway System and up to one road-mile reasonable access from the Interstate.

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & ORS 818.200

Stats. Implemented: ORS 810.050

Hist.: TO 4-2001(Temp), f. & cert. ef. 7-30-01 thru 1-25-02; TO 8-2001, f. & cert. ef. 12-17-01

734-071-0050**Length Exclusive Devices**

(1) Devices that do not extend more than 24 inches in length beyond the rear of a trailer or semitrailer that are used exclusively to facilitate loading and unloading from the rear of a semitrailer or trailer are excluded from semitrailer, trailer, and overall combination length determination.

(2) Appurtenances at the front or rear of a semitrailer or trailer the function of which is related to the safe and efficient operation of the semitrailer or trailer are excluded from semitrailer, trailer, and overall combination length determination.

(3) No device or appurtenance excluded from length determination shall be designed or used for carrying property.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 810.050 & ORS 810.060

Hist.: TO 9-2001, f. & cert. ef. 12-17-01

DIVISION 72

TELEPHONIC APPLICATION AND SELF-ISSUANCE OF PERMITS FOR THE MOVEMENT OF OVERSIZE/OVERWEIGHT VEHICLES AND LOADS

734-072-0005

Scope

Division 72 rules establish programs as authorized by ORS 818.220 for self-issuance and facsimile issuance of variance permits. The programs save time, travel and speed delivery of permits directly to the carrier's place of business.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96

734-072-0010

Self-Issuance Program for Variance Permits

(1) The self-issuance program for variance permits provides for two levels of authorization:

(a) Level I authorization allows a motor carrier to self-issue single trip permits following the telephone application process established in OAR 734-072-0015; and

(b) Level II authorization allows a motor carrier to independently self-issue single trip permits without contacting the department.

(2) To qualify for Level I authorization, a motor carrier must make application to the Over-Dimensional Permit Unit of the Motor Carrier Transportation Division located in Salem.

(3) To qualify for Level II authorization, a motor carrier must make application to the Over-Dimensional Permit Unit of the Motor Carrier Transportation Division located in Salem, and the carrier must:

(a) Attend and successfully complete a training program conducted by the Over-Dimensional Permit Unit;

(b) Have purchased a minimum of 125 single trip permits for oversize/overweight movements within the 12 months preceding the application for self-issuance of permits; and

(c) Be in good standing with the Motor Carrier Transportation Division by:

(A) Not having more than one late highway use tax report in the 12 months preceding the application;

(B) Having maintained current vehicle and tax registration with the Department during the 12 months preceding application;

(C) Having no suspensions of tax registration with the Department during the 12 months preceding the application;

(D) Having no more than a five percent underpayment finding on the most current weight-mile tax audit;

(E) Having a satisfactory safety rating with the Motor Carrier Transportation Division or the United States Department of Transportation;

(F) Signing an agreement of responsibility for the permitted moves; and

(G) Filing proof of general liability insurance with the Oregon Department of Transportation in the amount and manner described in OAR 734-072-0011.

(4) Upon approval by the Over-Dimensional Permit Unit, the motor carrier may self-issue permits at the level authorized.

(5) Authorized carriers may purchase blank permits for the purpose of self-issuance from the Motor Carrier Transportation Division of the Department of Transportation, Over-Dimensional Permit Unit office located in Salem. The fee for each blank permit form is the fee required under ORS 818.270.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; HWY 3-1997, f. & cert. ef. 3-24-97; TO 2-2001, f. & cert. ef. 6-14-01

734-072-0011

Liability Insurance Requirements for Self-Issuance of Variance Permits

(1) The requirement described in OAR 734-072-0010(3)(c)(G) shall include evidence of general liability insurance having an annual aggregate limit of not less than \$2,000,000.

(2) Evidence of insurance filing shall be in the form of a certificate of insurance signed by the carrier's insurer or in any other manner the department requires.

(3) If a general liability insurance policy required by OAR 734-072-0010(3)(c)(G) becomes invalid, participation in the self-issuance of variance permits program shall cease and be suspended until an insurance policy meeting the requirements of this section becomes effective and is accepted by the department.

(4) The general liability insurance filing required by OAR 734-072-0010(3)(c)(G) shall be in addition to the automobile liability insurance filing requirement found in ORS 825.160.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 3-1997, f. & cert. ef. 3-24-97

734-072-0015

Telephone Application for Self-Issued Variance Permit

(1) The applicant authorized to self-issue permits at Level I may telephone any of the permit issuing offices listed on the permit form.

(2) During telephone contact, the permit analyst will review the permit request based upon information furnished by the applicant.

(3) The permit analyst determines if it is appropriate to issue the requested permit. In making the determination, the permit analyst compares the request to the rules and statutes relating to oversize/overweight movement. Usually, it will be possible to inform the applicant during the initial telephone conversation if the permit is granted. If the dimensions and weights requested require further investigation, a later call to the applicant may be necessary.

(4) When it is appropriate to issue the requested permit, the permit analyst will inform the applicant of the terms and conditions of the permit. The applicant shall, at that time, enter the terms and conditions upon the permit form. The applicant shall furnish the preprinted number of the permit form to the permit analyst.

(5) When the applicant has entered upon the permit form the terms and conditions furnished by the permit analyst, the variance permit is valid.

(6) The applicant shall send a copy of the completed permit to the Over-Dimensional Permit Unit, 550 Capitol St. NE, Salem, Oregon 97301-2530 within 15 days of the effective date of the permit.

(7) The Department may compare copies of Level I self-issued permits to the telephone application for permit provided by the applicant under this rule for the purpose of verifying permit accuracy and compliance with division 72 rules.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; TO 2-2001, f. & cert. ef. 6-14-01

734-072-0020

Additional Requirements for Self-Issuance of Variance Permits

(1) When self-issuing a variance permit, the carrier must meet all information requirements contained in ORS 818.225.

(2) A carrier self-issuing permits under Level II authorization must coordinate all moves with the appropriate city or county jurisdictions, as required.

(3) Any incident involving damage or potential damage to any roadway or structure resulting from a permitted move under the programs established by division 72 rules must be reported to the Permit Unit Manager in Salem within 24 hours of the occurrence.

(4) The permit form will consist of an original and one copy. The original permit and attachments must be in the possession of the driver of the permitted vehicle as provided under ORS 818.350. The carrier must mail the Road Use Assessment Fee (RUAF) billing calculation and payment along with the Salem copy of the permit, within 15 days from the end of the month in which the permit was issued, to the Over-Dimensional Permit Unit, 550 Capitol St. NE, Salem, Oregon 97301-2530.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; TO 2-2001, f. & cert. ef. 6-14-01

734-072-0022

Program for Single Trip Variance Permits Sent by Facsimile

The program for issuance of permits by facsimile allows carriers to apply for permits by telephone or facsimile. The completed permit is transmitted by the Transportation Permit Unit to the carrier's place of business by facsimile.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96

734-072-0023

Requirements of Carrier to Receive Permits by Facsimile

(1) In order for a carrier to qualify to receive variance permits by facsimile:

(a) The carrier must enter into an agreement with the Department of Transportation to receive permits by facsimile. The agreement identifies the carrier's business location, procedure for preparing facsimile permits and requirement for attachment of general provisions; and

(b) The carrier must provide the Over-Dimensional Permit Unit a telephone number that allows for the automatic, unattended reception of transportation permits.

(2) Carriers that are not subject to ORS 825.474 or 825.480 or do not meet the exemption requirements under ORS 818.200(2) are not eligible to receive permits by facsimile;

(3) A person or persons providing permit services must file a surety bond with the Motor Carrier Transportation Division of the Oregon Department of Transportation in the amount of \$1,500.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; TO 2-2001, f. & cert. ef. 6-14-01

734-072-0025

Limitations on Self-Issued Permits or Permits Sent by Facsimile

(1) Self-issued permits or permits sent by facsimile to a carrier's place of business authorize only single trip movement.

(2) Approved routes consist only of those highways specified on the permit. Separate authorization must be obtained for travel over any other highway, road or street.

(3) Unused self-issue permits may be recalled at the discretion of the Chief Engineer. Refund of permit fees for unused permits will be made upon receipt of the permit form and written request.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96

734-072-0030

Cancellation of Permits or Authorization

(1) The cancellation authority granted under ORS 818.220 shall apply to and govern the cancellation of self-issue and facsimile permits sent to carrier's place of business.

(2) Authorization to self-issue permits may be canceled if a carrier, on more than one occasion, fails to conform to written or verbal direction from the Over-Dimensional Permit Unit regarding proper self-issuance of permits.

(3) A motor carrier's Level II authorization to self-issue permits may be canceled if:

(a) The provisions contained in OAR 734-072-0010(3) are not maintained in good standing;

(b) Random checks of completed and returned self-issued permits that show the reported weights or dimensions are not accurate or in conformance with the program;

(c) The carrier fails to submit a timely payment of a Road Use Assessment Fee (RUAF) billing resulting from a permitted move;

(d) The carrier fails more than once in a six-month period to submit self-issue reports by the 15th day of the month following the month to which the report applies; or

(e) The carrier is shown to have been involved in an incident causing damage to a roadway or structure while conducting a movement requiring a variance permit, except when operating within the provisions of a variance permit issued directly by the Department of Transportation.

Stat. Auth.: ORS 184.816, 184.819 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; TO 2-2001, f. & cert. ef. 6-14-01

DIVISION 73

102"-WIDE COMMERCIAL VEHICLES — COMBINATIONS NOT SUBJECT TO OVERALL LENGTH RESTRICTIONS

734-073-0050

Purpose and Scope

(1) The purpose of OAR chapter 734, division 73 is to:

(a) Implement federal laws for combinations of vehicles, sizes and weights; and

(b) Continue issuing permits for similar commercial combinations of vehicles on designated state highways.

(2) Division 73 rules apply to the operation, over designated state highways, of certain vehicles and vehicle combinations described in Sections 411, 412 and 416 of Public Law 97-424, also known as the "Surface Transportation Assistance Act of 1982", hereinafter referred to as STAA 1982 and available from the Motor Carrier Transportation Division (MCTD) Over-Dimensional Permit Unit. Section 411 of STAA 1982, 49 U.S.C. secs. 3111-3112, relates to the lengths of truck-tractor with semitrailer combinations and truck-tractor with semitrailer and trailer combinations. Section 412(a)(2) of STAA 1982 relates to bus length and reasonable access. Division 73 rules also authorize special equipment transporting logs.

(3) When a conflict between OAR chapter 734, division 71 and division 73 occurs and the conflict will result in the loss of Federal funds, division 73 rules shall prevail for the specified combinations of vehicles when operating on National Network Highways and those other highways where reasonable access beyond one mile has been granted.

(4) Drivers of all combinations of vehicles authorized by OAR chapter 734, division 73, must have a valid commercial driver license appropriate for the combination of vehicles being operated.

(5) OAR chapter 734, division 73 does not apply to vehicles licensed as, or which can be used as, recreational vehicles as defined in ORS 446.003(36) or to any combination of more than two vehicles not used exclusively for commercial purposes and subject to ORS Chapters 823 and 825.

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

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220

Hist.: 2HD 20-1983, f. & ef. 9-23-83; HWY 4-1992, f. & cert. ef. 3-25-92; HWY 4-1993, f. & cert. ef. 7-16-93; HWY 1-1995, f. & cert. ef. 9-18-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-073-0051

Definitions

As used in division 73 rules, the following definitions shall apply:

(1) "Automobile transporter" means a combination of vehicles that transports vehicles on a semitrailer and may also transport vehicles on the power unit behind the cab or on an over-cab rack.

(2) "Boat transporter" means a combination of vehicles that transports boats on a semitrailer and may also transport boats on the power unit behind the cab or on an over-cab rack.

(3) "Bus" means a vehicle designed and operated exclusively to transport not less than 10 persons excluding the driver, primarily for hire. The term "bus" does not include motor homes or busses converted or used for any other purpose.

(4) "Drive-away saddlemount vehicle transporter combination" and "drive-away saddlemount with fullmount vehicle transporter" means a combination of vehicles consisting of a truck-tractor that tows not more than three saddlemounted vehicles. These vehicles may also include not more than one fullmounted vehicle.

(5) "Automobile transporter towing stinger-steered semitrailer" means an automobile transporter having the fifth-wheel assembly mounted on a stinger or extension to the framework of the truck. The fifth-wheel connection must be behind and below the axle in front of it.

(6) "Boat transporter towing stinger-steered semitrailer" means a boat transporter having the fifth-wheel assembly mounted on a

stinger or extension to the framework of the truck. The fifth-wheel connection must be behind and below the axle in front of it.

(7) "MCTD" means Motor Carrier Transportation Division of the Oregon Department of Transportation.

(8) "Overall length," as used in division 73 is as defined in OAR 734-071-0010(2)(j).

(9) "Traditional automobile transporter" means an automobile transporter having the fifth-wheel assembly over the drive axle(s) and towing a semitrailer. The power unit may include a framework or other assembly that provides the ability to also transport automobiles.

(10) "Traditional boat transporter" means a boat transporter having the fifth-wheel assembly over the drive axle(s) and towing a semitrailer. The power unit may include a framework or other assembly that provides the ability to also transport boats.

(11) "Truck-tractor semitrailer-semitrailer" means a combination of vehicles consisting of a truck-tractor which also tows two semitrailers connected by kingpin to fifth-wheel assemblies. These combinations of vehicles do not have an intermediate converter dolly between the two semitrailers which is normally used in double trailer operations. This is commonly referred to as a 'B-Train.'

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & ORS 818.200

Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220

Hist.: HWY 1-1995, f. & cert. ef. 9-18-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-073-0056

Truck-Tractor and Semitrailer Combinations — National Network Highways

(1) The Federal Highway Administration determined Oregon's grandfathered semitrailer length to be 53 feet, allowed by the STAA 1982. The length of a semitrailer operated in Oregon on the National Network Highways designated by the STAA 1982 shall not exceed 53 feet. The overall length is not restricted.

(2) The length of any load carried on the semitrailer authorized in section (1) of this rule shall not extend beyond the rear of the semitrailer by more than five feet.

(3) The National Network Highways in Oregon approved for operation by this rule consist only of those highways listed in Code of Federal Regulations Title 23, Part 658, Appendix A. These routes are shown in green on Route Map 7, available from the MCTD Over-Dimensional Permit Unit. Route Map 7 dated April 2001 is by reference made a part of these rules.

(4) A permit is not required for the dimensions and routes authorized by this rule.

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

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220

Hist.: HWY 4-1992, f. & cert. ef. 3-25-92; HWY 1-1995, f. & cert. ef. 9-18-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-073-0060

Truck-Tractor with Semitrailer Combinations — State-Approved Highways

(1) The length of a semitrailer in a truck-tractor and semitrailer combination shall not exceed 53 feet. The overall length of the combination shall not exceed 65 feet.

(2) The length of any load carried on the semitrailer authorized in section (1) of this rule, shall not extend beyond the rear of the semitrailer by more than five feet.

(3) State approved highways for the movement of combinations of vehicles described in section (1) of this rule, shall consist of the state highways designated by the Chief Engineer. The list of approved highways and types of vehicle combinations authorized are maintained by the Chief Engineer, and are displayed in black on Route Map 7.

(4) A permit is required for the dimensions and routes authorized by this rule.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 20-1983, f. & cert. ef. 9-23-83; HWY 4-1992, f. & cert. ef. 3-25-92; HWY 1-1995, f. & cert. ef. 9-18-95

734-073-0063

Truck-Tractor and Semitrailer Combinations — Specific Routes

The operations described in OAR 734-071-0040 may be allowed on highways other than the Oregon Interstate Highway Sys-

tem by variance permit. A variance permit issued under this rule shall specify conditions and a route approved by the Department.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.100, 818.200 & ORS 818.220

Hist.: TO 4-2001(Temp), f. & cert. ef. 7-30-01 thru 1-25-02; TO 8-2001, f. & cert. ef. 12-17-01

734-073-0065

Truck-Tractor with Semitrailer and Trailer Combinations and Truck-Tractor with Semitrailer and Semitrailer Combinations

(1) The maximum length of any semitrailer or trailer in a truck-tractor with semitrailer and trailer or truck-tractor with semitrailer and semitrailer combination shall not exceed 40 feet.

(2) The overall length of the combination is not restricted; however, the maximum dimension when measured from the front of the first semitrailer to the rear of the second semitrailer or trailer shall not exceed those dimensions set forth in section (3) of this rule.

(3)(a) Provided the distance from the front of the first semitrailer to the rear of the second semitrailer or trailer does not exceed 60 feet, the combination of vehicles may operate over Group 1 highways. Group 1 highways are shown on Group Map 1, available from the MCTD Over-Dimensional Permit Unit. Group Map 1 dated April 1999 is by reference made a part of these rules;

(b) If the distance from the front of the first semitrailer to the rear of the second semitrailer or trailer is more than 60 feet but does not exceed 68 feet, the combination of vehicles may operate over those state highways listed in Code of Federal Regulations Title 23, Part 658, Appendix A, and are displayed on Route Map 7;

(c) In no instance shall the distance from the front of the first semitrailer to the rear of the second semitrailer or trailer exceed 68 feet; and

(d) The length of any load carried on the semitrailer or trailer of a truck-tractor with semitrailer and trailer or truck-tractor with semitrailer and semitrailer combination as described in this rule shall not extend beyond the rear of the semitrailer or trailer by more than five feet.

(4) A permit is not required for the dimensions and routes authorized by this rule.

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

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 20-1983, f. & cert. ef. 9-23-83; HWY 4-1992, f. & cert. ef. 3-25-92; HWY 1-1995, f. & cert. ef. 9-18-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-073-0066

Reasonable Access

(1) Code of Federal Regulations Title 23, Part 658.19 requires Oregon to adopt provisions for Reasonable Access to terminals. For purposes of these rules, "terminal" means, at a minimum, any location where:

(a) Freight either originates, terminates, or is handled in the transportation process; or

(b) Commercial motor carriers maintain operating facilities.

(2) Reasonable access is allowed up to and including one mile on highways intersecting National Network Highways, except where specifically prohibited. OAR 734-073-0067 describes the requirements and procedures for excluding highways, roads and streets from Reasonable Access.

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

Stat. Auth.: ORS 183 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 4-1992, f. & cert. ef. 3-25-92

734-073-0067

Procedure for Restricting Reasonable Access

(1) Restricting reasonable access shall only be for reasons of safety and engineering analysis of the route.

(2) The State, City, or County access review process shall include:

(a) An analysis of the proposed access route using observations or other data obtained from the operation of an authorized test vehicle over the route; or

(b) Analysis of the access route proposed by application of vehicle templates to plans of the route.

(3) Denial of access to terminals and services shall be based only on safety and engineering analysis of the access route. Safety

criteria include, but are not limited to, sight distance, horizontal and vertical curvature, safe passing opportunities, rail and utility crossings and accident data for the requested access.

(4) Routes are automatically approved if not acted upon within 90 days of access review application.

(5) Application shall be in the form and manner established by the road authority for access review.

(6) Reasonable access is prohibited where signs prohibiting the access are posted. These signs shall be posted only when access review has been made and the Road Authority determines the access is denied.

(7) Road Authorities may request technical assistance from the Department of Transportation to meet the requirements of this rule.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 4-1992, f. & cert. ef. 3-25-92; HWY 1-1995, f. & cert. ef. 9-18-95

734-073-0070

Revisions to Approved Routes

(1) The Chief Engineer, or his designee, may add by written order additional state highways or sections thereof, and specify the type(s) of vehicle combinations allowed by these rules. In taking such action, the Chief Engineer:

(a) Shall determine if the public interests will be served;

(b) Shall determine that the movement can be made in safety; and

(c) Shall have a trial test run conducted if he considers it appropriate.

(2) The Chief Engineer may delete by written order certain highways or sections thereof and may limit the vehicle combinations allowed. Such action may be taken for reasons of safety. The Chief Engineer shall seek the concurrence of the Federal Highway Administration for those highways listed in **Code of Federal Regulations Title 23, Part 658, Appendix A**.

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

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 20-1983, f. & ef. 9-23-83; HWY 4-1992, f. & cert. ef. 3-25-92; HWY 1-1995, f. & cert. ef. 9-18-95

734-073-0080

Maximum Weight Limit on Interstate Highways

(1) The following provisions apply to maximum weights allowed on interstate highways without a permit:

(a) The provisions of **Title 23 Code of Federal Regulations, Part 658** are applicable to the National System of Interstate and Defense Highways, and reasonable access thereto.

(b) The maximum gross vehicle weight shall be 80,000 pounds except where lower gross vehicle weight is dictated by **Bridge Weight Table 1**.

(c) The maximum gross weight upon any one axle, including any one axle of a group of axles of a vehicle is 20,000 pounds.

(d) The maximum gross weight on tandem axles is 34,000 pounds.

(e) The maximum gross weight on two or more consecutive axles may not exceed the limitations specified in **Bridge Weight Table 1**. This table of weights was developed using the following formula, referred to as the Bridge Gross Weight Formula:

$$W = 500 \left(\frac{LN}{N-1 + 12N + 36} \right)$$

where L is the distance between two or more axles, N is the number of axles of a group of axles and W is the weight in pounds, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axle is 36 feet or more.

(2) Permits may be issued without regard to section (1) through (5) of this rule for vehicles and loads which cannot be dismantled or divided (non-divisible loads) without incurring substantial costs or delay.

(3) Permits may be issued for vehicles or combinations of vehicles authorized by ORS Chapter 818 and OAR chapter 734, division 74.

(4) The provisions of this rule do not apply to single, or tandem axle weights, or gross weights legally authorized under Oregon law on July 1, 1956. The group of axles requirements established in this

section shall not apply to vehicles legally grandfathered under Oregon group of axle weight tables or formulas on January 4, 1975.

(5) Permits may be issued for two consecutive tandem axles having a loaded weight of 34,000 pounds each, provided the distance between the first and last axles of the two tandem axles is 30 feet or more.

(6) Permits may be issued for a group of four axles consisting of a set of tandem axles and two axles spaced nine feet or more apart that have a loaded weight of 70,000 pounds provided the distance between the first and last axles of the group is 35 feet or more.

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

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 4-1993, f. & cert. ef. 7-16-93; HWY 8-1993, f. 12-17-93, cert. ef. 1-1-94; HWY 1-1995, f. & cert. ef. 9-18-95

734-073-0085

Statutory Weight Exemptions not Applicable to Interstate Highways

Except when operating under the terms of a variance permit, the weight exemptions authorized by ORS 818.030(8) and (9) do not apply to vehicles operating on any interstate highway.

Stat. Auth.: ORS 184.616, 810.050, 818.030 & Ch. 510, OL 1993

Stats. Implemented: ORS 818.030

Hist.: HWY 8-1993, f. 12-17-93, cert. ef. 1-1-94

734-073-0090

Bus Length

When operating on the National Network of Highways established by the **STAA 1982**, and to points of loading and unloading as required by modifications to **Sections 4006(b)(1)** and **(2)** of the **Intermodal Surface Transportation Assistance Act of 1992**, a bus operating singly may have a vehicle length of 45 feet. For purposes of this rule, a bus is a vehicle designed to transport ten or more people plus the driver. A bus does not include a motor home or a vehicle designed or modified to include temporary living quarters.

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

Stat. Auth.: ORS 183, 810 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 4-1993, f. & cert. ef. 7-16-93

734-073-0100

65-Foot Tractor-Semitrailer Combinations

Tractor-semitrailer combinations having an overall length in excess of 60 feet, but not exceeding 65 feet, may operate by permit over certain designated highways. In such combinations the semitrailer may not exceed 48 feet. Designated highways where these combinations may operate are restricted to the following:

(1) Any state highway or section thereof which has tow or more lanes of travel in the same direction.

(2) The highways indicated in solid black on **Route Map 7**, which by this reference is made a part hereof.

(3) Such additional highways which, after investigation and consideration, the Chief Engineer may deem capable of safely accommodating the described combinations of vehicles. Trial test runs may be required in determining additional route approval.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818

Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220

Hist.: 1 OTC 5-1980, f. & ef. 3-27-80; HWY 1-1995, f. & cert. ef. 9-18-95; Renumbered from 734-071-0020

734-073-0110

Specialized Equipment — Automobile Transporters

The Federal Highway Administration determines Automobile Transporters are Specialized Equipment as provided by **23 CFR 658.13(d)**.

(1) Traditional automobile transporters are authorized to operate on National Network Highways without permit or overall length restriction, provided the semitrailer does not exceed 53 feet, and the load does not extend beyond the rear of the semitrailer by more than five feet.

(2) Automobile transporters towing stinger-steered semitrailers may operate without a permit on National Network Highways with a length of 75 feet, excluding load overhangs, provided the semitrailer does not exceed 53 feet and the load does not extend beyond the front of the power unit by more than four feet and does not extend beyond the rear of the semitrailer by more than five feet.

(3) Automobile transporters are authorized to have load protection devices or aerodynamic devices provided the devices do not exceed legal load extensions as defined in section (2) of this rule and the device is not load bearing.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060
Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220
Hist.: HWY 1-1995, f. & cert. ef. 9-18-95; HWY 8-1997, f. & cert. ef. 8-26-97

734-073-0120

Specialized Equipment — Boat Transporters

The Federal Highway Administration determines Boat Transporters are Specialized Equipment as provided by **23 CFR 658.13(d)**.

(1) Traditional boat transporters are authorized to operate on National Network Highways without permit or overall length restriction, provided the semitrailer does not exceed 53 feet, and the load does not extend beyond the rear of the semitrailer by more than five feet.

(2) Boat transporters towing stinger-steered semitrailers may operate without a permit on National Network Highways with a length of 75 feet, excluding load overhangs, provided the semitrailer does not exceed 53 feet and the load does not extend beyond the front of the power unit by more than four feet and does not extend beyond the rear of the semitrailer by more than five feet.

(3) Boat transporters are authorized to have load protection devices or aerodynamic devices provided the devices do not exceed legal load extensions as defined in section (2) of this rule and the device is not load bearing.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060
Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220
Hist.: HWY 1-1995, f. & cert. ef. 9-18-95; HWY 8-1997, f. & cert. ef. 8-26-97

734-073-0130

Specialized Equipment — Drive-Away Operations

The Federal Highway Administration determines Drive-away saddlemount vehicle transporter combinations are Specialized Equipment as provided by **23 CFR 658.13(d)(iii)**.

(1) A Drive-away saddlemount vehicle transporter combination or a Drive-away saddlemount with fullmount vehicle transporter may operate without permit on National Network Highways with an overall length limit of 75 feet.

(2) All Drive-away saddlemount vehicle transporter combinations must comply with all applicable safety regulations of **49 CFR 393.71**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818
Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220
Hist.: HWY 1-1995, f. & cert. ef. 9-18-95

734-073-0140

Specialized Equipment for Transporting Logs or Poles

(1) As used in OAR chapter 734, division 73, the following two combinations of vehicles are considered the same as a truck-tractor with semitrailer and trailer combinations when operating by permit:

(a) A combination of vehicles capable of carrying no more than two loads of logs placed end to end consisting of a log-truck and pole trailer pulling a trailer; or

(b) A combination of vehicles transporting logs and consisting of a log-truck and two load carrying stinger-steered pole trailers with the first stinger-steered pole trailer supporting one end of logs loaded on the log-truck and one end of logs loaded on the second stinger-steered pole trailer.

(2) The following conditions apply to the vehicle combinations described in section (1) of this rule:

(a) These combinations of vehicles may not travel unladen and must only be used to transport logs or poles;

(b) The distance measured from the log bunk on the truck to the rear of the second stinger-steered pole trailer or trailer shall not exceed 68 feet;

(c) The reach of a pole trailer may not extend more than five feet from the end of the tunnel housing; and

(d) The overall length is not restricted.

(3) No part of any load carried on the trailer or the second stinger-steered pole trailer shall extend beyond the rear more than five feet.

(4) The routes approved for operation of these combinations of vehicles consist only of those highways listed in Code of Federal Regulations Title 23, Part 658, Appendix A and other approved highways as displayed on Route Map 7.

[Publications: Publications & Maps referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 810.030 & ORS 818.200
Stats. Implemented: ORS 818.030, 818.200 & ORS 818.220
Hist.: HWY 1-1995, f. & cert. ef. 9-18-95; TO 2-2001, f. & cert. ef. 6-14-01

DIVISION 74

THE ISSUANCE OF PERMITS FOR COMBINATIONS OF VEHICLES HAVING GROSS WEIGHTS IN EXCESS OF 80,000 POUNDS

734-074-0005

Scope

(1) OAR chapter 734, division 074 shall apply to and govern the issuance of permits for movement of certain vehicle combinations having a total gross weight in excess of 80,000 pounds. The loads carried by these vehicles may be of a nature which are reducible or can be readily dismantled.

(2) OAR chapter 734, division 074 does not apply to any power unit with a registered gross weight of less than 26,000 pounds or those power units having an actual weight of 8,000 pounds or less.

(3) OAR chapter 734, division 074 does not apply to vehicles licensed, or which can be used as recreational vehicles as defined by ORS 446.003(36), or to any combination of more than two vehicles not used exclusively for commercial purposes and subject to ORS Chapters 823 and 825.

Stat. Auth.: ORS 184.616 & ORS 184.619
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97

734-074-0006

Driver Responsible for Operation

The driver of any combination of vehicles authorized by OAR chapter 734, division 74 is responsible for complying with all permit requirements and provisions. If the driver, police officer or Department of Transportation determines conditions are hazardous, the permitted vehicle shall leave the highway at the next available exit, truckstop or rest area and shall not proceed until the hazardous condition abates. Drivers of all combinations of vehicles authorized by division 74 rules must have a valid driver license appropriate for the combination of vehicles being operated.

Stat. Auth.: ORS 184.616, 184.619, 810.030 & ORS 818.220
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HWY 7-1992, f. & cert. ef. 3-27-92; HWY 3-1995, f. & cert. ef. 10-16-95; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0008

Definitions

As used in division 74 rules:

(1) "Auxiliary axle" is an axle that qualifies as a booster axle, flip axle or lift axle and when attached to the rear of a trailer shall be included in the measurement of the trailer.

(2) "Booster Axles(s)" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning.

(3) "Converter dolly" means those devices towed behind a vehicle and used to convert a semitrailer to function as a self-supporting trailer.

(4) "Dromedary truck-tractor" means a motor truck designed to carry a load and also pull a semitrailer by using a kingpin to fifth-wheel connection, and having more than 15,000 pounds GVWR. Unless specifically authorized, a dromedary truck-tractor may not tow a stinger steered trailer.

(5) "Flip axle" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed position on the ground extending the length and hauling capacity of the trailer.

(6) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298.

(7) "Lift Axle" means an axle(s) that can be raised from or lowered to the surface of the ground.

(8) "Log-truck" means a motor vehicle having a weight in excess of 15,000 pounds GVWR designed and used in conjunction with a pole trailer to transport one load of logs where one end of the logs rests upon the log truck and one end of the logs rests upon the pole trailer.

(9) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(10) "Motor Truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers, and having more than 15,000 pounds GVWR.

(11) "Pole Trailer" means a trailer attached or secured to a vehicle and ordinarily used for transportation of long or irregular loads such as logs capable of generally sustaining themselves as beams between the towing vehicle and the pole trailer.

(12) "Reasonably uniform in length" as used in ORS 818.210, means a variance of not more than eight feet from the longest to shortest self-supporting trailers or semitrailers within the authorized combination of vehicles. It does not include the length of a converter dolly when used to convert a semitrailer to a self-supporting trailer.

(13) "Tandem drive axles" means two or more axles spaced more than 40 inches but not more than 96 inches apart, neither of which can be raised from the surface of the ground, and where no one axle carries less than forty percent (40%) of the tandem axle weight. Each axle of a tandem drive axle shall have four tires or each axle may have two tires if tire width is at least 15 inches and each axle transmits motive power to the road surface. Any weight controls for the tandem axles on a power unit must be designed, installed and used such that the axles always distribute the load so no axle, tandem axle or group of axles exceeds the legal weight limits or bridge formula limits. All axle assemblies of the tandem drive axles (including axles, tires, brakes) must be adequate to carry the weight loading but may not have less than a 20,000 pound rating for each axle.

(14) "Truck-Tractor" means a motor vehicle designed and used primarily for drawing (towing) other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn and a manufacturers GVWR in excess of 15,000 pounds.

(15) "Variable-load suspension axle" means an axle that can vary the amount of weight being transmitted to the surface of the road by adjustments made by the driver. Examples of adjustments available to the driver include, but are not limited to, the use of tool(s), lock and key, pressure regulators with handles or knobs. The term variable load suspension axle does not include use of devices such as height control valves, axles controlled by devices that raise the axle when the vehicle moves backward or pre-set pressure regulators which are not adjustable by the driver.

Stat. Auth.: ORS 184.616 & ORS 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0010

Vehicle Combinations Eligible for Permits

(1) The following vehicle combinations are eligible for permits issued under OAR chapter 734, division 74 as long as they are in compliance with all applicable rules in OAR chapter 734, division 74:

(a) Combinations of vehicles described in ORS Chapter 818 that meet the requirements of OAR 734-074-0005;

(b) Combinations of vehicles described in OAR chapter 734, division 71;

(c) Combinations of vehicles described in OAR chapter 734, division 73;

(d) Combinations of vehicles that include a dromedary truck-tractor having a dromedary box, plate or deck not exceeding 12-feet, 6-inches in length including any load overhang on the dromedary box, plate or deck, provided the overall length does not exceed that authorized by ORS Chapter 818, OAR chapter 734, division 71 or OAR chapter 734, division 73, whichever is appropriate for the combination of vehicles and the route of travel;

(e) A dromedary truck-tractor having a dromedary box, plate or deck not exceeding 17-feet, 6-inches in length including any load overhang on the dromedary box, plate or deck, towing one stinger-steered semitrailer which is not longer than 53-feet and having an overall length of not more than 75 feet and operating on Group 1 Highways established in OAR chapter 734, division 71;

(f) A laden or unladen combination of vehicles designed and used exclusively to transport overseas marine containers that are enroute to or from a marine port or an intermodal transportation facility. Travel is authorized only on routes indicated in green on Route Map 7. Route Map 7, dated April 2001, is by reference made a part of this rule. The semitrailer may not be longer than 53 feet, and overall length must be 105 feet or less. This combination of vehicles may consist of not more than one truck-tractor, one jeep, one overseas marine container trailer and one booster axle; and

(g) A combination of vehicles commonly known as triples, consisting of a motor truck and two self-supporting trailers, or a truck tractor and semitrailer drawing two self-supporting trailers or semitrailers mounted on dollies equipped with fifthwheels having an overall length not in excess of 105 feet. The self-supporting trailers must be reasonably uniform in length. A motor truck in this combination may not exceed 35 feet in overall length. This combination of vehicles may tow an unladen dolly used to transport a third load carrying semitrailer, provided the combination, including the dolly, does not exceed 85 feet.

(2) The maximum allowable overall lengths for vehicles described in subsections (1)(a) through (c) of this rule are as follows:

(a) For combinations of vehicles described under subsection (1)(a) of this rule, those lengths indicated in ORS Chapter 818 that comply with OAR 734-074-0005;

(b) For combinations of vehicles described under subsection (1)(b) of this rule, those lengths described in OAR chapter 734, division 71; and

(c) For combinations of vehicles described under subsection (1)(c) of this rule, those lengths described in OAR chapter 734, division 73.

(3) All combinations of vehicles operating under permits authorized by OAR chapter 734, division 74 must have power units equipped with tandem drive axles, except:

(a) The power unit of triple combinations may be equipped with a single drive axle; and

(b) The power unit of double trailer combinations placed in service prior to April 1, 1983, may be equipped with a single drive axle.

(4) A lift or variable load axle(s) may be allowed. The following conditions apply:

(a) The controls for the lift axle may be mounted inside the cab of the power unit provided that it limits the axle movement to the complete up or complete down position;

(b) The control for a variable load, or lift axle, which allows adjustment to increase or decrease loading on the vehicle shall not be accessible from the cab;

(c) The axle must always distribute the load so no axle, tandem axle or group of axles exceeds the legal weight limits or bridge formula limits; and

(d) The lift axle assembly (including axles, tires, brakes) must be adequate to carry the weight loading but may not have less than a 10,000 pound rating.

(5) When the weight difference between any trailer or semitrailer of a triple trailer combination is 1,500 pounds or more, the trailers shall be placed from the heaviest to the lightest, with the lightest trailer placed to the rear of the combination.

(6) Combinations of vehicles described as "triple trailers" shall have a visible and fully operable method of adjustment to eliminate slack in the hitch mechanism. The device used may be air chamber operated or it may be adjustable by a mechanical cam method.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 6-1988, f. & cert. ef. 9-22-88; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 12-1992, f. & cert. ef. 10-16-92; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0020

Maximum Allowable Weights

(1) The maximum allowable weights for single axles and tandem axles shall not exceed those specified under ORS 818.010(1) and (2).

(2) When a group of axles or gross weight is 80,000 pounds or less, the maximum allowable weight shall not exceed those specified under ORS 818.010(3).

(3) When a group of axles or gross weight is more than 80,000 pounds, the maximum allowable weights shall not exceed those set forth in Permit Weight Table 2, available from the MCTD Over-Dimensional Permit Unit as Form 735-8111 (7-94). Permit Weight Table 2, is by reference made part of these rules. In no case may gross weight exceed the sum of the permissible axle, tandem axle or group of axle weights, whichever is less.

(4) In no case may any rim or wheel carry more weight than that specified by the manufacturer of the rim or wheel.

(5) All single axles of triple trailer combinations must have four tires except for the power unit steering axle and lift axles that may have two tires.

(6) For purposes of division 74 rules, the axle(s) of a converter dolly or dolly are not included in determining authorized weight unless those axles carry part of the weight of the cargo being transported.

(7) In any triple trailer combination, the first two cargo carrying units, including the power unit, may not weigh more than 80,000 pounds unless equipped with tandem drive axles.

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

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 10-1992, f. & cert. ef. 9-16-92; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0023**Application for Permit**

(1) Application for permits may be made in person, at Oregon ports of entry or by mail to the Over-Dimensional Permit Unit, 550 Capitol St. NE, Salem, Oregon 97301-2530.

(2) Telephone applications for permits may be made by calling (503) 373-0000 and the executed permit will be transmitted electronically for pick up by the applicant at the nearest state office equipped with a receiving device.

(3) Routine information such as permittee name, address and vehicle identification must be included for the application.

(4) Permits will not be issued when an application is incomplete.

(5) Carriers who have unsatisfactory safety ratings from the U.S. Department of Transportation or the Oregon Department of Transportation, Motor Carrier Transportation Division are not eligible for permits under these rules.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0025**Permit Duration**

Permits issued under division 74 rules are for a single trip within a period of time not to exceed 10 days, or continuous trips for up to one year from the effective date.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0027**Other Permit Eligibility Requirements**

(1) Combinations of vehicles operating under the authority of permits authorized by OAR chapter 734, division 74, will not be eligible to also operate with increased weights authorized under permits issued pursuant to ORS 818.210(3)(b) or (c).

(2) No applicant for a permit may have an unsatisfactory rating from US DOT or the equivalent safety rating from Oregon Department of Transportation, Motor Carrier Transportation Division.

(3)(a) An interstate permittee operating triple trailers must have a satisfactory US DOT safety rating, and an intrastate permittee must have an equivalent safety rating from the Oregon Department of Transportation, Motor Carrier Transportation Division;

(b) Motor carriers exempt from regulation by US DOT or the Oregon Department of Transportation, Motor Carrier Transportation Division shall have a Level 1 safety inspection performed by a Commercial Vehicle Safety Alliance (CVSA) certified safety inspector to be eligible for a triple trailer permit. This safety inspection must determine the driver and combination of vehicles are free of defects. The motor carrier becomes eligible for a permit when all repairs or deficiencies written on the inspection form are corrected and verified by a CVSA-certified safety inspector. The successful completion of the Level 1 safety inspection is used to establish a satisfactory safety rating. Successful completion of this Level 1 safety inspection is required every year before the triple trailer permit may be renewed;

(c) For purposes of this rule, a satisfactory safety rating means a safety rating other than unsatisfactory.

(4) Permits for triple trailers require the permittee to have an established safety program that includes drivers and vehicles.

(5) Triple trailer permits may be suspended or revoked for failure to comply with any of the provisions or conditions of OAR chapter 734, division 74. The permittee and driver must comply with all of the motor vehicle laws and the latest motor carrier safety regulations issued by the US DOT.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0028**Permit Cancellation**

(1) Permits may be canceled for reasons set forth under ORS 818.220(7).

(2) The operation of any combination of vehicles under OAR chapter 734, division 74 over highways not authorized shall constitute a serious violation of ORS 818.220(7)(a). The Chief Engineer has authority to cancel all such permits held by any person, company, or firm for such periods of time as the Chief Engineer considers appropriate.

(3) If any of the provisions of OAR chapter 734, division 74 are found to be contrary to federal law to the extent that loss of federal-aid funds may result, the Chief Engineer may immediately delete from any otherwise valid permit that portion of the permit in conflict.

(4) This permit is automatically void if the permittee incurs an unsatisfactory rating from US DOT or the equivalent safety rating from Oregon Department of Transportation, Motor Carrier Transportation Division.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.22

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0029**Insurance Requirements**

At the discretion of the Chief Engineer, permit applicants may be required to furnish liability and indemnity insurance as provided for under ORS 818.220(1)(d) and (e).

Stat. Auth.: ORS 183, 184.617, 184.619, 366.205 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92

734-074-0030**Approved Routes**

(1) State highways approved for travel by combinations of vehicles operating under permits issued pursuant to OAR chapter 734, division 74, shall be designated by the Chief Engineer. In designating such highways the Chief Engineer shall take into consideration the increased gross weights carried by the vehicles and shall, by use of engineering judgment, determine that the highways so approved, and the structures and bridges on those highways, can safely accommodate the increased weights.

(2) Permits shall only authorize travel over highways under State of Oregon, Department of Transportation, jurisdiction. For

movement over other streets or roads, separate permission must be obtained from the proper authority.

(3) When designating approved routes for triple trailers, the Chief Engineer may restrict the days and hours of travel.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818
 Stats. Implemented: ORS 818.200 & ORS 818.220
 Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95

734-074-0035

Speeds

(1) Vehicles operating under permits authorized through OAR chapter 734, division 74, shall maintain a minimum speed within 20 MPH of the posted truck speed. When encountering steep grades where a minimum speed within 20 MPH of the posted truck speed cannot be maintained, the combination of vehicles shall activate four-way flashers. Horsepower must be adequate to maintain a minimum speed of 20 MPH except on grades the Chief Engineer deems are impractical.

(2) Combinations of vehicles authorized by division 74 rules may not exceed the posted speed or basic speed rule laws described in ORS Chapter 811. The penalty for violation of this rule is that provided by ORS 818.420(2). Exceeding the posted or basic speed limit is a permit violation.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220
 Stats. Implemented: ORS 818.200 & ORS 818.220
 Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 10-1992, f. & cert. ef. 9-16-92; HWY 3-1995, f. & cert. ef. 10-16-95; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0040

Operating Days and Hours, Prohibitions

(1) Vehicles and combinations of vehicles, except triple trailers, may operate on a 24-hour, seven-day week basis.

(2) Triple trailers may operate on a 24-hour, seven-day week basis unless traveling on a highway which prohibits such movement on holidays or weekends. The holidays include New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day:

(a) When a triple trailer route prohibits movement on weekends, movement is prohibited from 5 p.m. Friday until 10 p.m. Sunday; and

(b) When a triple trailer route prohibits movement on holidays, movement is prohibited during all hours:

(A) Triple trailer movement on any route that has holiday or weekend restriction is prohibited from noon on the Wednesday preceding Thanksgiving Day until sunrise on Monday following Thanksgiving Day;

(B) Triple trailer movement on any route that has holiday or weekend restriction is prohibited between 4 p.m. Thursday and sunrise Monday, when the State observes any of the specified holidays on a Friday;

(C) Triple trailer movement on any route that has holiday or weekend restriction is prohibited between 4 p.m. Friday and sunrise Tuesday, when the State observes one of the specified holidays on a Monday;

(D) Triple trailer movement on any route that has a holiday or weekend restriction is prohibited when a holiday falls on any other day of the week between 4 p.m. on the day preceding the holiday until 12:01 a.m. on the day following the holiday unless it is otherwise restricted.

Stat. Auth.: ORS 184.616, 184.619, 810 & ORS 818
 Stats. Implemented: ORS 818.200 & ORS 818.220
 Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95

734-074-0045

Weather Restrictions

(1) Movement of triple trailer combinations is prohibited when road surfaces are hazardous or when wind or other conditions may cause the unit or any part thereof to swerve, to whip, to sway or fail to follow substantially in the path of the towing vehicle.

(2) Road surfaces are considered hazardous for triple trailers when the surface is other than bare or wet pavement. Examples of "other than bare or wet pavement" include surfaces that have frost, ice, sleet or snow on the roadway.

(3) Triple trailer movement is prohibited when visibility is less than 1,000 feet due to snow, mist, rain, dust, smoke, fog or other atmospheric conditions.

(4) All other combinations of vehicles operating under permits issued by division 074 rules must comply with the traction device requirements of OAR chapter 740, division 100, OAR chapter 734, division 017, and any other lawful order requiring the use of traction tires or devices.

Stat. Auth.: ORS 184.616 & ORS 184.619
 Stats. Implemented: ORS 818.200 & ORS 818.220
 Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97

734-074-0051

Splash and Spray Suppressant Devices

(1) The Chief Engineer requires combinations of vehicles operating under OAR chapter 734, division 74 when highways are wet, including those surfaces that have rain, frost, ice, sleet or snow to be equipped with devices designed to suppress water splash and spray.

(2) The Chief Engineer is hereby granted authority to approve and require by written order the type, style, design, and installation details of splash and spray devices. These devices may consist of but are not limited to the following:

- (a) Air deflectors mounted on the vehicles;
- (b) Fender flaps behind wheels;
- (c) Side flaps over wheels; and
- (d) Water collection type fenders.

(3) Minimum splash and spray requirements are shown on MCTD Forms 734-2351 (6-2001) and 734-2351A (5-2001). These forms are available from the MCTD Over-Dimensional Permit Unit and by reference are made a part of these rules.

(4) The headlights of a triple trailer combination must be illuminated any time windshield wipers are used.

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

Stat. Auth.: ORS 184.616 & ORS 184.619 & ORS 818.220
 Stats. Implemented: ORS 818.200 & ORS 818.220
 Hist.: 2HD 6-1983, f. & ef. 2-18-83; 2HD 21-1983, f. & ef. 9-23-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0060

"Long Load" Warning Signs for Triple Trailer Combinations

(1) A warning sign for triple trailer combinations bearing the legend "LONG LOAD" is to be displayed on the back of the rear-most trailer or semitrailer.

(2) The sign shall be positioned at such height as to be readily visible to following drivers and:

(a) Signs shall be seven feet wide by 18 inches high with black letters 10 inches high with 1-5/8 inch brush stroke in accordance with Federal Highway Administration series C on highway yellow background;

(b) The highway yellow background of the sign shall be made of reflectorized material when operating between one half hour after sunset and one half hour before sunrise;

(c) Signs must be kept clean, legible and mounted horizontally with adequate support to provide full visibility at all times when in use;

(d) Signs may have a border with not more than 1-5/8 inch brush stroke around the edge of the sign; and

(e) All such signs shall be removed or retracted when not required.

(3) Combinations of vehicles described in OAR chapter 734, division 73 do not require warning signs.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220
 Stats. Implemented: ORS 818.200 & ORS 818.220
 Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 10-1992, f. & cert. ef. 9-16-92; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0070

Triple Trailer Driver Requirements

(1) All triple trailer drivers must have a current Commercial Drivers License with a doubles/triples endorsement and no airbrake restriction.

(2) Triple trailer drivers and all individuals and companies operating triple trailers must comply with Part 391 — Qualifications of Drivers of the Federal Motor Carrier Safety Regulations (FMCSR) and Part 395 — Driver Hours of Service. Driver exemptions as set forth in Section 391.67 of the FMCSR shall not apply to triple trailer drivers.

(3) Triple trailer drivers must have a minimum of one-year experience driving commercial vehicle combinations.

(4) Triple trailer drivers hired by the permit holder after the effective date of this rule, must successfully complete a road test using triple trailers. This shall be the road test established by the Oregon Department of Transportation, Driver and Motor Vehicle Services Division. The road test must be conducted by an experienced triple trailer driver or trainer. The permittee must maintain a record of the road test for inspection by ODOT personnel for three years following the road test.

(5) Triple trailer drivers must be directly supervised by the company or individual holding the triple trailer permit.

(6) Triple trailers may not be operated by any driver convicted of two or more speeding violations in Oregon as provided by ORS Chapter 811 within the last three years while operating a triple trailer combination after being informed by ODOT that the driver is disqualified.

(7) Triple trailers may not be operated by a driver if suspension or revocation of driving privileges arises from operation of a commercial motor vehicle in any state or province during the past three years.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HWY 1-1993, f. & cert. ef. 3-16-93; TO 2-2001, f. & cert. ef. 6-14-01

734-074-0090

Permit Requirements for Triple Trailer Operators

(1) The third cargo carrying unit of a triple trailer combination cannot be a liquid cargo tank.

(2) A carrier operating under division 74 rules must report total miles driven in Oregon while operating triple trailer combinations to the MCTD in the form it requests. Triple trailer annual mileage reports must be received by the MCTD by March 31 of the year following the year the miles were driven. Failure to timely report triples miles may result in cancellation or non-renewal of a motor carrier's triple trailer permits.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HWY 1-1993, f. & cert. ef. 3-16-93; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01

DIVISION 75

MOVEMENT OF OVER-DIMENSIONAL MOBILE HOMES AND MODULAR BUILDING UNITS

734-075-0002

Exhibits

The exhibits referred to in OAR chapter 734, division 75 are by reference made a part of these rules. The Chief Engineer maintains the exhibits and any amendments authorized by rule.

Stat. Auth.: ORS 183 & ORS 818
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HWY 6-1990, f. & cert. ef. 3-13-90

734-075-0005

Scope

OAR chapter 734, division 75 regulates the transportation of mobile homes and modular building units on highways under the authority of the Oregon Department of Transportation.

Stat. Auth.: ORS 183, 184.617, 184.619 & ORS 818
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90

734-075-0008

Definitions

(1) "Base" means the widest point of the outside dimension of a mobile home or modular unit exclusive of appurtenances such as door handles, required safety equipment or eaves.

(2) "Business day" is any day, Monday through Friday except holidays as defined in section (8) of this rule.

(3) "Chief Engineer" means the Chief Engineer of the Oregon Department of Transportation or a person designated to act for the Chief Engineer.

(4) "Daylight hours" means one-half hour before sunrise until one-half hour after sunset.

(5) "Eave" means an extension of the roof past the base of the unit. It does not include external accessories or devices attached to the unit.

(6) "Eave cap" means the shingle or roofing material extension over the eave fascia.

(7) "GVWR" means the gross vehicle weight rating as defined in ORS 801.298.

(8) "Holiday" for the purpose of division 75 rules means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and includes any other days the state officially observes these holidays by the closure of State offices.

(9) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(10) "Mobile home" or "manufactured home" means a trailer designed as a structure for human habitation or for business, commercial or office purposes, which can be towed upon public highways and which is more than 45 feet in length or more than eight feet six inches in width. For the purposes of division 75 rules, all references to mobile homes include manufactured homes.

(11) "Modular building unit" means a structural building component designed to be used with other modules. These modules create a structure for human habitation or for business, commercial or office purposes, and are more than 45 feet in length or more than eight feet six inches in width. Modular units are transported or hauled on another vehicle instead of being towed on the unit's own axles or running gear.

(12) "Multi-lane highway" means a highway having two or more lanes of travel in the same direction.

(13) "Overall width" means the width at the base plus any eave.

(14) "Seller," as used in this rule, means any person engaged in selling or distributing a manufactured home to persons who in good faith purchase or lease manufactured homes for purposes other than resale.

(15) "Toter" means a motor vehicle designed and used primarily for towing a mobile home.

(16) "Transport" means to tow, haul, drive, or otherwise move a vehicle or load on the State highway system.

(17) "Truck-tractor" means a motor vehicle designed and used primarily for drawing (towing) other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn and having a manufacturers GVWR in excess of 15,000.

(18) "Unit" means a mobile home, manufactured home or modular building unit as defined in sections (10) and (11) of this rule.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200
Stats. Implementation: ORS 818.200 & ORS 818.220
Hist.: 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0009

Authorized Unit Contents

Units designed for human habitation or for business, commercial or office purposes may be transported with only those items manufactured as part of the unit or accessory parts.

Stat. Auth.: ORS 184.616 & ORS 184.619
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: TO 2-1998, f. 3-10-98, cert. ef. 4-1-98

734-075-0010

Vehicle Combinations and Maximum Size Limitations

This rule establishes the maximum number of vehicles in combination and size of vehicles allowed when moving an overdimensional unit:

(1) The combination shall not exceed two vehicles, the towing vehicle and the unit being transported.

(2) The maximum lengths are as follows:

(a) The maximum overall length of the combination:

(A) Shall not exceed 85 feet on State highways;

(B) Shall not exceed 95 feet on Group 1 highways; and

(C) Shall not exceed 110 feet on Interstate highways, multilane highways or highways approved for the longer length as authorized by a single trip permit or as authorized by written order of the Chief Engineer.

(b) The mobile home being towed shall not exceed 75 feet, including the tongue, except as provided in OAR 734-075-0011.

(3) The maximum widths are as follows:

(a) Units shall not exceed 14 feet overall width, unless a single trip permit or a limited duration permit is issued;

(b) Units transported under a single trip permit or limited duration permit are subject to the following:

(A) The unit shall not exceed 16 feet at the base;

(B) The overall width shall not, under any circumstance, exceed 18 feet.

(c) Except as prohibited by paragraph (b)(B) of this section, a unit may have an eave, provided the eave does not extend beyond either side by:

(A) More than 30 inches for units with a base width of less than 16 feet; or

(B) More than 16 inches for units with a base width of 16 feet.

(d) External appurtenances such as doorknobs, window fasteners, eave cap, clearance lights and load securement devices may exceed the width of the unit by a distance not greater than two inches on each side.

(4) The maximum height for the combination, while in transit, shall not exceed 14 feet unless proper route clearance has been obtained and is so indicated on the permit.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 18.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2 HD 7-1982(Temp), f. & ef. 11-22-82; 2HD 15-1983, f. & ef. 8-18-83; HWY 4-1988(Temp), f. & cert. ef. 6-23-88; HWY 4, 1989, f. & cert. ef. 5-23-89; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; HWY 7-1996, f. & cert. ef. 12-19-96; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0011

Chief Engineer Authority to Approve Greater Length

(1) The Chief Engineer is authorized to issue permits, on an individual basis, to allow transportation of a unit into or through the State when the length exceeds that specified in OAR 734-075-0010.

(2) In issuing permits under this rule, the Chief Engineer shall determine the following:

(a) The safety of other highways users is not impaired; and

(b) The adjacent states through which the mobile home is transported also permit the movement.

Stat. Auth.: ORS 183 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92

734-075-0015

Mobile Home Towing Vehicle Requirements

The following requirements apply to mobile home towing:

(1) The towing vehicle must be equipped with dual wheels on the drive axle;

(2) If the towed unit:

(a) Is 10 feet or less width at the base, or 11 feet or less overall width, the toter utilized shall have a minimum GVWR of 8,000 pounds;

(b) Exceeds 10 feet width at the base or 11 feet overall width, the toter utilized shall have a minimum GVWR of 15,000 pounds; or

(c) Exceeds 14 feet width at the base or 15 feet overall width, the toter utilized shall have a minimum GVWR of 32,000 pounds.

(3) Engine horsepower shall be enough to maintain minimum speeds of 45 MPH on Interstate highways and 35 MPH on other highways.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99

734-075-0020

Axles, Tires and Brakes for Mobile Homes

This rule establishes requirements for axles, tires and brakes for mobile homes transported under variance permit:

(1) All mobile homes must comply with Federal HUD regulations set forth in Title 24, Chapter XX, Part 3280, Subpart J, in effect April 1, 1998, or, if the mobile home was manufactured before April 1, 1998, the regulations governing transportation systems in effect on the manufacturer's completion date.

(2) Any mobile home manufactured before June 15, 1976, or not bearing the official HUD label shall comply with the following:

(a) Over eight feet six inches to ten feet in width at the base:

(A) If equipped with a single axle, shall have brakes on all wheels; and

(B) When equipped with two or more axles, must have brakes on all wheels of two axles unless the towing vehicle has a minimum weight of 9,000 pounds. In this case brakes are required on all wheels of one axle.

(b) Over 10 feet to 14 feet in width at the base:

(A) Mobile homes more than 60 feet in length (including tongue) shall have a minimum of three axles;

(B) All other mobile homes shall have a minimum of two axles;

(C) All wheels of at least two axles must have brakes regardless of unit length; and

(D) Tires shall be 8:00 x 14.5 minimum size with 10 ply minimum rating.

(3) Mobile homes exceeding 14 feet in width at the base shall:

(a) Have a minimum of four axles, except mobile homes that do not exceed 40 feet in length shall have a minimum of three axles;

(b) Have operating brakes on all wheels of at least the minimum number of axles required in subsection (a) of this section;

(c) Not exceed the manufacturer's maximum weight rating on any tire as specified on the tire sidewall; and

(d) Not exceed the manufacturer's maximum weight rating for any wheel, axle, drawbar, hitch or other suspension component.

(4) For any mobile home in transit, a minimum of two spare tires must be carried for the unit being towed. They must be inflated and ready for use.

(5) All brakes shall be designed, and installed so that they are capable of being activated:

(a) From the inside of the cab of the toter; and

(b) If the unit accidentally breaks away from the towing vehicle.

(6) The Department shall not issue a permit to move a mobile home that exceeds 14 feet wide at the base unless the Department determines that all of the conditions and specifications set forth in this rule have been met.

(7) Failure to comply with section (3) of this rule shall deem the permit null and void.

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

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0022

Driver Requirements

The individual or company to whom the permit is issued shall be responsible to verify that all drivers towing mobile home units with base widths in excess of 14 feet or overall width in excess of 15 feet:

(1) Shall have a minimum of one year experience towing over-width mobile homes;

(2) Shall not have been convicted of more than one moving violation while operating commercial motor vehicles in any state, country or province within the last one year;

(3) Shall not have had more than one preventable, recordable accident involving a commercial motor vehicle in any state, country or province within the last two years;

(4) Shall not have had a suspension or revocation of driving privileges from operation of a commercial motor vehicle in any state, country or province during the past three years; and

(5) Shall not have been convicted of DUII while operating a commercial motor vehicle in any state, country or province within the last five years.

Stat. Auth.: ORS 184.616, 184.619 & ORS 825.252

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: TO 2-1998, f. 3-10-98, cert. ef. 4-1-98

734-075-0025

Hauling Vehicles for Modular Building Units

The following requirements apply to vehicles hauling modular building units:

(1) Modular Building Units must be hauled with a truck-tractor and semitrailer or trailer combination.

(2) Equipment weights of the combination and the sizes and ratings of all its components must be comparable to those commonly used by the motor carrier industry in general over-the-road trucking operations.

(3) When operating unladen, the overall length of the combination shall not exceed the length authorized by statute or rule.

(4) Modifications are permitted to the conventional equipment necessary for hauling modular building units. This may include "stretch-trailer" features, adjustable trailer heights from inflatable air bags, and steering capabilities for the semitrailer axles. These features must be stipulated in the permit.

(5) Requests for moves using trailers stretched more than 53 feet in length shall be on an individual basis, and permits will be issued for a single trip only. The authorized length must be stipulated in the permit. When not operating under the terms of a permit issued under this rule the stretch trailer must be reduced to dimensions authorized by statute or rule.

(6) The modular building unit must be securely fastened to the semitrailer or trailer. It may be secured by steel cables and winch tighteners, steel cables or chains and chain binders, or by adequate bolting directly to the semitrailer or trailer frame. Alternate securing methods approved by the United States Department of Transportation regulations may be used.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; TO 3-1999, f. & cert. ef. 10-13-99; TO 5-2001, f. & cert. ef. 10-18-01

734-075-0030

Open Sides Covering

(1) Units transported with uncovered open sides must have adequate cargo securement to prevent shifting or loss of any accessory parts included with the load.

(2) The open side of units transported more than 25 miles must be covered with a rigid material such as plywood, hardboard or similar material:

(a) In lieu of rigid material, plastic covering can be used, provided a grillwork of lumber or other material is used to prevent billowing of the plastic material; or

(b) The grillwork is not required if the open side is covered with plastic made of non-tearable, cross-laminated polyethylene material, provided the material adequately prevents billowing.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; TO 3-1999, f. & cert. ef. 10-13-99

734-075-0035

Pilot Vehicles

(1) Pilot vehicle(s) may be needed to insure the safety of the traveling public when vehicle and load movements involve excessive width, height, length, or projections to the front or rear of vehicles or combinations of vehicles. The configuration of such pilot vehicles(s) shall be a passenger car, pick-up, truck, or truck-tractor of legal size and weight. A pilot vehicle may not tow another vehicle.

(2) Pilot vehicles escorting oversize loads or vehicles are required to have the following:

(a) Warning signs mounted above the roofline of the vehicle. This sign shall bear the legend "OVERSIZE LOAD." The sign shall be at least five feet wide by ten inches high; have black letters eight inches high with one-inch brush stroke in accordance with Federal Highway Administration series B, on highway yellow background. The sign shall be displayed only during the course of the oversize movement, and shall be removed or retracted at all other times. The sign must be clean, legible, and mounted adequately to afford full view at all times, when in use, to the front or rear depending upon location of pilot vehicle or relative to the oversize unit;

(b) Warning lights are required in addition to those lights that may otherwise be required by law. The warning lights shall be displayed only during the course of the oversize movement, and at all other times the requirements found in ORS 816.350(7) shall apply. Strobe lights are allowed. These lights shall be mounted above the roof of the cab, be clearly visible from 500 feet, have a minimum of 30 flashes per minute and be either:

(A) Two flashing amber lights as widely spaced laterally as is practical;

(B) Revolving type amber light(s); or

(C) Amber type strobe light(s) with 360 degree visibility.

(c) Two-way radio communications between the oversize vehicle and the pilot vehicle(s) must be maintained at all times;

(d) Two 18-inch-square red flags mounted on three-foot length staffs shall be carried by each pilot vehicle. The pilot vehicle operator shall use the flags to warn oncoming or overtaking traffic when the oversize unit is stopped and obstructing traffic;

(e) Eight safety flares or reflectors. Safety flares may not be used when the movement involves hazardous materials.

(3) The number of pilot vehicles required for certain movements is shown on Permit Attachment 75-A, which is issued with permits requiring pilot vehicles. The Chief Engineer is authorized to alter the number of pilot vehicles from those specified in Permit Attachment 75-A depending upon local conditions, seasonal traffic, construction projects, or other considerations. The permit will reflect altered requirements. Further, units with an overall width not exceeding 12 feet that meet the warning lights requirements described in 734-075-0040(2) and (3) are exempt from rear pilot car requirements on Group 1 Highways unless specifically required by the permit or Chief Engineer.

(4) Permit Attachment 75-A is available from the Motor Carrier Transportation Division, Over-Dimensional Permit Unit.

(5) The highway classification groups referred to in Permit Attachment 75-A are established by and maintained by the Chief Engineer.

(6) Positioning of pilot vehicles — Unless specified otherwise, the pilot vehicle(s) shall be positioned ahead of (when one is required) or to the front and rear of (when two or more are required) the oversize unit at a distance of 300 feet to 500 feet from the unit. In areas where increased traffic congestion is encountered, where traffic is controlled by signals, or where other conditions may so require, the spacing shall be reduced as may be required to properly safeguard the traveling public.

(7) When for any cause the oversize unit is stopped and occupies or encroaches onto the highway's travel lane, the pilot vehicle(s) shall be positioned to warn and safeguard other traffic approaching from any direction from which visibility or sight distance may be limited.

(8) Duties of pilot vehicle operations:

(a) Warn approaching and/or overtaking traffic of the unit's presence on the highway to provide a maximum of protection and safety for the traveling public; and

(b) When encountering bridges, structures, tunnels, or other locations where clearances may be limited to the extent that normal two-way traffic cannot be maintained, the pilot vehicle operator shall signal by hand or radio to the towing vehicle driver when the oversize unit can proceed without conflict to approaching traffic. As the

oversize unit then proceeds through such areas of impaired clearance, the pilot vehicle operator shall warn approaching traffic.

(9) Pilot vehicle(s) are considered to be under the direct control and supervision of the oversize vehicle operator.

(10) Specific identified locations may require additional precautions. Permits shall specify locations that require certified flagging to be conducted. The flagging shall be conducted in accordance with the standards in the Manual on Uniform Traffic Control Devices as adopted in OAR 734-020-0005.

[Publications: Publications & Forms referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2 HD 7-1982(Temp), f. & ef. 11-22-82; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0036

Approved Routes for Authorized Combinations of Vehicles

(1) The Chief Engineer, or his designee, may approve, limit or delete by written order the state highways or sections of state highways approved for use by vehicles authorized by OAR chapter 734, division 75.

(2) The Chief Engineer may also specify the type(s) of vehicle combinations authorized on approved routes.

(3) The list of approved highways and types of vehicle combinations authorized are maintained by the Chief Engineer.

(4) Trial test runs may be required to revise routes or approved vehicle combinations.

(5) Before adding or deleting highways or sections of highways, the Chief Engineer shall investigate the condition of the highway, and may consider road surface width, condition, safe passing opportunities, bridges, structures, accessibility, general sight distance, and other conditions which he deems appropriate along such highways.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200
Stats. Implemented: ORS 818.220 & ORS 818.225
Hist.: TO 3-1999, f. & cert. ef. 10-13-99

734-075-0037

Special Provisions

(1) Movement of all units with a base width over 14 feet or an overall width in excess of 15 feet on two lane highways shall be required to submit for approval by the Department a traffic control plan that is acceptable to all road authorities through which the vehicle(s) will travel and lists the desired date of move, routes of travel, turnouts for traffic relief and dimensions of load.

(2) If the eave extends more than 24 inches beyond either side of the mobile home base, in addition to all other lights required by law, a clearance light as described in ORS 816.200 shall be mounted on the outermost front and rear corners of the eave.

(3) Vehicles transporting manufactured homes that exceed 14 feet width at the base shall travel only in the right lane unless obstructions, merging traffic or permit requirements dictate otherwise. A vehicle transporting a manufactured home in excess of 14 feet at the base, shall not pass other overdimensional vehicles.

(4) The seller of a manufactured home that exceeds 14 feet width at the base, and is to be transported over Oregon highways, is the shipper of the manufactured home. As the shipper, the seller shall have the obligation of pre-determining whether the appropriate road authority may issue an overdimensional permit so that the manufactured home can be delivered to the location specified by the potential purchaser of the manufactured home.

Stat. Auth.: ORS 184.616, 184.619, 818.200 & ORS 823.009
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: TO 2-1998, f. 3-10-98, cert. ef. 4-1-98

734-075-0040

Warning Lights for Power Units Transporting Oversize Units

(1) Except as provided in section (3) of this rule, in addition to any other lights required by law, a power unit transporting an oversize unit shall be equipped with warning lights when:

(a) Width exceeds 10 feet when operating on two lane highways; or

(b) Width exceeds 12 feet when operating on four lane highways.

(2) The warning lights shall be mounted on the transporting power unit above the roof of the cab, be clearly visible from 500 feet, have a minimum of 30 flashes per minute and be either:

(a) Two flashing type amber lights as widely spaced laterally as practical;

(b) Revolving type amber light(s); or

(c) Amber type strobe lights with 360 degree visibility.

(3) A power unit transporting an oversize unit is exempt from the warning light requirements when operating with a minimum of two pilot vehicles on all highways, or one pilot vehicle if width does not exceed 10 feet.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0041

Warning Lights for Transported Over-Width Mobile Homes

In addition to any other lighting required by law, a transported over-width mobile home shall be equipped with two flashing type amber lights mounted on the rear of the towed unit. The lights must be:

(1) On a horizontal plane at least eight feet above the road surface and separated as far as practical; and

(2) Clearly visible from 500 feet.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220
Stats. Implemented: ORS 818.220
Hist.: TO 2-2001, f. & cert. ef. 6-14-01

734-075-0045

Warning Signs and Flags Required

(1) Over-width loads or vehicles transporting over-width loads are required to display to the front and rear standard signs bearing the words "OVERSIZE LOAD":

(a) Signs shall be seven feet wide by 18 inches high with black letters 10 inches high with 1-5/8 inch brush stroke in accordance with Federal Highway Administration series C on highway yellow background;

(b) The highway yellow background of the sign shall be made of reflectorized material when operating between one half hour after sunset and one half hour before sunrise;

(c) Signs must be kept clean, legible and mounted horizontally with adequate support to provide full visibility at all times when in use;

(d) Signs may have a border with not more than 1-5/8 inch brush stroke around the edge of the sign;

(e) Signs shall not cover or interfere with the visibility of the Oregon tax identification plate or registration plate; and

(f) All such signs shall be removed or retracted when not required.

(2) All four lower corners of any over-width load shall be marked during daylight hours with red flags that are a minimum 12 inches square. Flags must be kept clean and must be clearly visible to the front and rear. The attachment device shall not extend beyond the widest extremity by more than three inches on either side.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200
Stats. Implemented: ORS 818.200 & ORS 818.220
Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0055

Days of Travel and Peak Traffic Hour Restrictions

(1) When operating on interstate highways and other highways approved by the Chief Engineer, movement from one-half hour after sunset to one-half hour before sunrise is allowed if:

(a) Width is not in excess of ten feet; and

(b) The outermost extremities are illuminated by lamps or markers as described by the requirements of ORS Chapter 816.

(2) Movement of a vehicle or combination of vehicles exceeding eight feet six inches in width is not allowed:

(a) From one-half hour after sunset to one-half hour before sunrise except as allowed in section (1) of this rule;

(b) During any hours on holidays, as defined in OAR 734-075-0008(8);

(c) After 2 p.m. on the last business day preceding the observed holiday through one-half hour before sunrise of the first business day following the observed holiday, except operations conducted in accordance with section (1) of this rule may recommence at 12:01 a.m. on the first business day following the observed holiday;

(d) From noon on the Wednesday preceding Thanksgiving Day until one-half hour before sunrise on Monday following Thanksgiving Day, except operations conducted in accordance with section (1) of this rule may recommence at 12:01 a.m. on the Monday following Thanksgiving Day; or

(e) During daylight hours Saturday after noon and Sundays from Memorial Day to Labor Day.

(3) In addition to the restrictions in section (1) and (2) of this rule, if a unit exceeds 12 feet overall width:

(a) Movement is prohibited in the urban areas of Portland, Salem, Eugene, Grants Pass and Medford, on non-interstate highways, between the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.; and

(b) Movement on Interstate 5 between the Oregon-Washington border and its junction with OR 217, and Interstate 5 between Exit #24 and #33 near Medford is prohibited between the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.

(4) In addition to the restrictions in sections (1), (2) and (3) of this rule, if a unit exceeds 14 feet width at the base or 15 feet overall width:

(a) Movement is prohibited in urban areas of Portland, Salem, Eugene, Grants Pass and Medford, on all highways, between the hours of 7:00 a.m. to 9:00 a.m., 11:00 a.m. to 1:00 p.m. and 4:00 p.m. to 6:00 p.m.; and

(b) Movement is prohibited outside the Portland urban area between the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. Monday through Friday on the following highways:

(A) Interstate 5, between milepost 278 and the Oregon-Washington border;

(B) Interstate 84, between milepost 15 and the junction of Interstate 5 at mile post 0;

(C) Interstate 205; and

(D) US Highway 26 (Sunset Highway), between milepost 64 east to Portland.

(5) The Chief Engineer may impose or alter time of travel restrictions. These may be necessary, to prevent conflict with highway construction or repair projects, or to cope with local or seasonal traffic conditions.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99

734-075-0060

Weather Restrictions

(1) Movement is prohibited when road surfaces are hazardous due to ice, snow or frost or when visibility is less than 500 feet due to snow, mist, rain, dust, smoke, fog or other atmospheric conditions.

(2) Movement is prohibited when wind conditions exist which cause excessive swaying or weaving, or tip-over of the towed unit, or are such that the towed unit cannot maintain its lane of travel.

(3) To assist the permittee in complying with restrictions caused by weather conditions, the Department of Transportation may place signs in areas where winter weather conditions may cause travel to be hazardous. When restrictions are displayed, movement of units is prohibited.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-

90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 3-1999, f. & cert. ef. 10-13-99; TO 5-2001, f. & cert. ef. 10-18-01

734-075-0065

Consideration of Traveling Public — Spacing Interval

(1) It is the intent of OAR chapter 734, division 75 that movement of units be made with maximum consideration for the safety and convenience of the traveling public.

(2) All vehicles required by OAR 734-075-0045 to display warning signs shall maintain a distance of at least one-half mile between other combinations required to display warning signs traveling in the same direction, except the spacing shall be reduced as may be required to properly safeguard the traveling public:

(a) When overtaking or passing;

(b) In areas where increased traffic congestion is encountered;

(c) Where traffic is controlled by signals; or

(d) Where other conditions may so require.

(3) All slow-moving lanes and turn-outs must be used to allow following traffic to pass.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01

734-075-0070

Authorized Routes and Permit Duration

(1) The movement of units is authorized under an annual permit on highways designated under section (2) of this rule.

(2) OVERALL WIDTH OF UNIT — AUTHORIZED LENGTH — AUTHORIZED ROUTES:

(a) 8'06" to 10' — 85' — All state highways;

(b) Over 10' to 12' — 95' — Group 1 highways;

(c) Over 12' to 14' — 95' except 110' allowed on Interstates and multilane highways — Highways approved for this width by the Chief Engineer.

(3) Movement of any unit over highway routes other than as provided for under section (2) of this rule may be permitted on a single-trip permit or limited duration permit basis.

(4) The Chief Engineer is authorized to make additions or deletions to the highways, or sections of highways, indicated in section (2) of this rule.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; TO 3-1999, f. & cert. ef. 10-13-99

734-075-0075

Insurance Requirements

At the discretion of the Chief Engineer, permit applicants may be required to furnish liability and indemnity insurance as provided for under ORS 818.220(1).

Stat. Auth.: ORS 183, 184.617, 184.619 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90

734-075-0080

Permit Cancellation

Permits may be cancelled for reasons set forth under ORS 818.220(7).

Stat. Auth.: ORS 183, 184.617, 184.619 & ORS 818

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: 2HD 15-1983, f. & ef. 8-18-83; HWY 6-1990, f. & cert. ef. 3-13-90

DIVISION 76

ISSUANCE OF PERMITS ALLOWING TOW CARS TO TOW OVERSIZE DISABLED VEHICLES OR COMBINATIONS OF VEHICLES ON STATE HIGHWAYS

734-076-0005

Scope

Except as ordered by a peace officer, no person shall engage in the towing of any vehicle or combination of vehicles that exceed the maximum size or weight provided by statute unless that person has

obtained a special permit from the Motor Carrier Transportation Division, Over-Dimensional Permit Unit of the Oregon Department of Transportation. The provisions of OAR 734-076-0005 through 734-076-0185 authorize permits for combinations of vehicles including the tow vehicle that exceed size or weight limitations established by law or rule. These rules also provide a means of removing overdimensional and/or overweight disabled units from state highways, authorize recovery of the load transported by such vehicles and allow a replacement vehicle to be transported to the scene. Tow vehicles may not be used to circumvent legalization of a vehicle or combination of vehicles as required by an enforcement official.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: 1 OTC 17-1980(Temp), f. & ef. 9-19-80; 2HD 1-1981, f. & ef. 1-28-81; HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-29-99

734-076-0015

Definitions

For the purposes of division 76, the following definitions apply:

(1) "Business day" is any day Monday through Friday, except holidays as defined in section (7) of this rule.

(2) "Daylight hours" shall mean one-half hour before sunrise until one-half hour after sunset.

(3) "Disabled unit" means an inoperative or disabled vehicle or combination of vehicles being transported by a tow vehicle. This does not include a vehicle(s) that has been required to legalize for size or weight violations.

(4) "Full log truck" means a motor vehicle having a minimum GVWR of 17,001 pounds and designed to transport a load of logs entirely on the motor vehicle.

(5) "GVW" means combined gross vehicle loaded weight.

(6) "Gross vehicle weight rating" or "GVWR" means the gross vehicle weight rating as defined in ORS 801.298.

(7) "Holiday" for the purposes of these rules means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and includes any other days the state officially observes these holidays by the closure of State offices.

(8) "Lift axle" means an axle(s) that can be raised from or lowered to the surface of the ground.

(9) "Load recovery vehicles" are single-vehicles of legal size and weight, or a combination of vehicles consisting of a truck-tractor and semitrailer used to transport a disabled unit and/or its load.

(10) "Log truck" means a motor vehicle having a weight in excess of 17,000 pounds GVWR, designed and used in conjunction with a pole trailer to transport one load of logs where one end of the logs rests upon the log truck and one end of the logs rests upon the pole trailer.

(11) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(12) "Motor vehicle transporter" for the purposes of ORS 818.100(16) and (17) means a Class D tow vehicle that may only tow or transport disabled vehicles and that:

(a) Does not exceed 40 feet in length or 45 feet in length inclusive of a reach;

(b) Does not exceed 65 feet overall length in combination;

(c) Is equipped with a retractable reach; and

(d) May tow one additional vehicle.

(13) "Over-Dimensional Permit Unit" means the Over-Dimensional Permit Unit of the Oregon Department of Transportation, Motor Carrier Transportation Division.

(14) "Permit" means written authorization obtained from MCTD or an authorized road authority issued to the towing vehicle defining specific transportation activity including, but not limited to size, weight, hours of operation, operational conditions and routes.

(15) "Pole trailer" means a trailer attached or secured to a vehicle and ordinarily used for transportation of long or irregular loads such as logs or poles capable of generally sustaining themselves as beams between the towing vehicle and the pole trailer.

(16) "Tow" means to pull a load or vehicle behind the towing vehicle.

(17) "Tow vehicle" is as defined in ORS 801.530. Tow vehicles are further designated as Class A, B, C and D in OAR 257-050-0160, Mandatory Equipment Standards for Tow Trucks/Safety Related Requirements. Copies of OAR 257-050-0160 are available from the Oregon State Police, 400 Public Service Building, Salem, OR

97310 or the Over-Dimensional Permit Unit of the Motor Carrier Transportation Division, 550 Capitol Street NE, Salem, OR 97301-2530. In addition to the description of tow vehicle classes set forth in OAR 257-050-0160, tow vehicles are further described by class of design and for the following uses:

(a) "Class A" tow vehicles are motor vehicles with a minimum manufactured gross vehicle weight rating of 10,000 pounds or equivalent. Class A tow vehicles may be used for towing and recovery operations of a single vehicle of legal size and weight such as a passenger car, pickup truck, small trailer or equivalent vehicle and have a combined gross weight of 26,000 pounds or less including the weight of the tow vehicle;

(b) "Class B" tow vehicles are motor vehicles with a minimum manufactured gross vehicle weight rating of 17,000 pounds or equivalent. Class B tow vehicles may be used for towing and recovery operations of a single vehicle or combination of vehicles such as medium size trucks, trailers, motor homes or equivalent vehicle(s), including those vehicles initially operating under a transportation variance permit, and shall have a combined gross vehicle weight of 80,000 pounds or less, not including the weight of the tow vehicle;

(c) "Class C" tow vehicles are motor vehicles with a minimum manufactured gross vehicle weight rating of 27,500 pounds or equivalent. Class C tow vehicles may be used for towing and recovery operations of a single vehicle or combination of vehicles such as large trucks, trailers, motor homes or equivalent vehicle(s), including those vehicles initially operating under a transportation variance permit, and may have a combined gross vehicle weight up to 98,000 pounds inclusive of the tow vehicle except when operating under a single trip permit issued to the tow vehicle. Class C tow vehicles must have tandem drive axles; and

(d) "Class D" tow vehicles (also known as roll backs) are motor vehicles that transport disabled units upon the tow vehicle, and may also tow a single vehicle of legal size using a crane, hoist, tow bar, tow line or dolly. All weights shall comply with ORS 818.010. They are further identified into three sub-classes describing the design and use allowed if they also tow other vehicles appropriate to their class:

(A) "Class D-A" tow vehicles are motor vehicles with a minimum manufacturer's gross vehicle weight rating of 11,000 pounds;

(B) "Class D-B" tow vehicles are motor vehicles with a minimum manufacturer's gross vehicle weight rating of 17,000 pounds; and

(C) "Class D-C" tow vehicles are motor vehicles with a minimum manufacturer's gross vehicle weight rating of 27,500 pounds. Class D-C tow vehicles shall have a tandem drive axle.

(18) "Towing vehicle" includes:

(a) A tow vehicle;

(b) A full log truck, either laden or unladen, used to tow another log truck or log truck pole trailer combination; and

(c) A log truck, either unladen or with a pole trailer in the decked (bunked) position, used to tow another log truck or log truck pole trailer combination.

(19) "Transport" means to haul a load or vehicle entirely on the tow vehicle or recovery vehicle.

(20) "Truck-tractor" means a motor vehicle designed and used primarily for drawing (towing) other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn and having a GVWR in excess of 15,000 pounds.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.220

Stats. Implemented: ORS 818.170

Hist.: 1 OTC 17-1980(Temp), f. & ef. 9-19-80; 2HD 1-1981, f. & ef. 1-28-81; HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99; TO 2-2001, f. & cert. ef. 6-14-01

734-076-0065

Payment of Appropriate Taxes and Fees

The motor carrier towing a disabled vehicle(s) is responsible for paying the appropriate road use taxes when operating under Division 76 rules. When the gross weight exceeds 98,000 pounds, road use fees described in ORS 818.225 shall be paid. When the gross weight is 98,000 pounds or less, weight-mile tax shall be paid. All fees shall be paid to the MCTD.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99

734-076-0075**Application for Permit**

(1) Application for permits may be made in person at Oregon ports of entry, or in person, by facsimile or by mail to the Over-Dimensional Permit Unit, 550 Capitol Street NE, Salem, Oregon 97301-2530.

(2) To qualify for a permit, a towing company must have vehicles that are registered as tow vehicles under ORS 803. Log truck and full log truck "towing vehicles" are exempt from this requirement.

(3) Application for permits may be made by telephone by calling (503) 373-0000. The permit may be mailed or transmitted electronically for pick up by the applicant at a state office equipped with a receiving device.

(4) The applicant shall provide:

- (a) Permittee name and address;
- (b) Towing or recovery vehicle year and make;
- (c) Towing or recovery vehicle identification number (also known as VIN number);
- (d) Towing or recovery vehicle registration plate number; and
- (e) Towing or recovery vehicle unit number if one has been assigned by the towing company.

(5) In addition to the requirements in section (4) of this rule, the applicant may be required to provide dimension and weight when applying for a single trip permit.

(6) Permits will not be issued when an application is incomplete.

(7) A transportation permit must be obtained prior to moving a disabled unit. In the instance where a single trip permit is required because the combined gross weight exceeds 98,000 pounds, and there is not a state office where transportation permits are available on route, the single trip permit may be obtained no later than the next business day providing the driver has possession of a continuous trip permit issued under division 76 rules to the towing vehicle.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99; TO 2-2001, f. & cert. ef. 6-14-01

734-076-0085**Permit Duration**

Permits issued under division 76 rules are for a single trip within a period of time not to exceed 10 days, or continuous trips for up to one year from the effective date.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.170

Hist.: 1 OTC 17-1980(Temp), f. & ef. 9-19-80; 2HD 1-1981, f. & ef. 1-28-81; HWY 8-1997, f. & cert. ef. 8-26-97, Renumbered from 734-076-0060; TO 1-1999, f. & cert. ef. 2-19-99; TO 2-2001, f. & cert. ef. 6-14-01

734-076-0095**Cancellation of Permit**

A transportation permit issued under Division 76 may be canceled at any time by the granting authority for any of the reasons stated in ORS 818.220.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97

734-076-0105**General Permit Provisions**

The following provisions apply to permits issued under Division 76 rules:

(1) **Posted Load Limits** — A vehicle or combination of vehicles may not operate over a highway posted for reduced weights or dimensions unless responding to an emergency on that highway and there is no other route available.

(2) **Bond-Highway Damage** — Permittee shall be held responsible and liable for any and all damage to, or destruction of, any highway or structure caused by the movement of the disabled unit. The permittee hereby agrees to reimburse ODOT for the cost or expense of repairing or restoring the highway. Such payment shall be made within 30 days after being billed by ODOT.

(3) **Insurance** — Permittee shall be held responsible and liable for any and all injury to persons or damage to property resulting from the movement of the disabled unit. Permittee shall reimburse and hold harmless the State of Oregon, and the Oregon Transportation

Commission, its members, officers, and employees, jointly and solely, from liability that may occur.

(4) The driver of a towing vehicle must have the proper operating license and all required endorsements for the operations conducted.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99

734-076-0115**Tow Vehicle Authorized Use**

(1) The following uses are allowed for tow vehicles towing disabled vehicles when operating under a permit issued by the Over-Dimensional Permit Unit:

(a) A Class A tow vehicle shall tow a combination of vehicles only the distance necessary to leave the public highway. From that point, no more than one vehicle may be towed;

(b) A Class B and Class C tow vehicle may tow a:

(A) Single vehicle unrestricted as to distance; or

(B) Combination of vehicles authorized by statute, rule or variance permit to the nearest population center of at least 15,000, or 100 Oregon airmiles, whichever is greater; and

(c) A Class D tow vehicle is not authorized to tow more than one vehicle.

(2) A truck-tractor semitrailer load recovery vehicle may only be used to transport the load of a disabled unit from the site of the incident to the nearest population center of at least 15,000, or 100 Oregon airmiles, whichever is greater. Such load recovery vehicle may transport, in addition to the recovered load, equipment necessary to recover the load. The weight may exceed those established in ORS 818.010 providing the weight does not exceed that allowed by OAR 734-076-0145.

(3) A solo recovery vehicle may be used only to transport the load of a disabled vehicle that is of comparable size to the recovery vehicle.

(4) A log truck or full log truck "towing vehicle" may tow an empty disabled log truck, a disabled log truck with a decked pole trailer, a loaded or unladen disabled full log truck, a disabled motor truck modified to transport logs with a trailer decked, or a loaded disabled log truck and pole trailer combination. A laden disabled log truck and pole trailer combination may be towed only to a destination mill or the motor carrier terminal, whichever is closer.

(5) A towing vehicle may tow a replacement vehicle to the necessary location.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.170 & ORS 822.200

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99; TO 2-2001, f. & cert. ef. 6-14-01

734-076-0125**Equipment Standards and Safety for Tow Vehicles**

(1) A tow vehicle shall have the minimum equipment required by OAR 257-050-0160 to qualify for a variance permit. Copies of OAR 257-050-0160, Mandatory Equipment Standards for Tow Trucks/Safety Related Requirements, are available as stated in OAR 734-076-0015.

(2) When towing a vehicle or combination of vehicles, a minimum of two safety chains shall be used. The safety chains shall be of sufficient strength to control the towed vehicle(s) in event of failure of the regular hitch, coupling device or other connection. No more slack shall be left in the safety chain than is necessary to permit proper turning. The safety chains shall be securely attached to the towing vehicle (not the stinger) and to the frame or axle of the towed vehicle.

(3) When towing a combination of vehicles over a highway for other than removing the vehicle(s) from the initial emergency, operable brakes are required on each vehicle in the combination except towed power units equipped with air brakes. When brakes are required, brakes must be controlled from the cab of the towing vehicle, except as described in section (5) of this rule.

(4) The rear vehicle being towed shall be equipped with operable lights including, but not limited to, tail lights, stop lights and turn signals.

(5) When a log truck or full log truck "towing vehicle" is towing a disabled log truck-pole trailer, the disabled log truck may be

operated by a driver steering the disabled log truck-pole trailer combination controlling the brakes of the towed vehicle(s) and operating lights including, but not limited to, tail lights, stop lights and turn signals. If the towed vehicle is occupied by a driver, there must be a two way audio communication system allowing the drivers of the towed vehicle and the towing vehicle to communicate.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99

734-076-0135

Warning Signs and Flags Required for Oversize Units

(1) Warning signs are required for dimensions exceeding:

(a) Eight feet, six inches in width;

(b) An overall length of 105 feet (inclusive of towing vehicle);

or

(c) For a combination of vehicles being towed exceeding 80 feet in length (inclusive of load).

(2) Warning signs shall bear the legend "OVERSIZE LOAD" except:

(a) When the width exceeds eight feet, six inches and the combination of vehicles being towed does not exceed 80 feet in length (inclusive of load) or the overall combination length does not exceed 105 feet (inclusive of towing vehicle), the sign may bear the legend "WIDE LOAD"; or

(b) When the width does not exceed eight feet, six inches and when the combination of vehicles being towed exceeds 80 feet in length (inclusive of load) or the overall combination length exceeds 105 feet (inclusive of towing vehicle), the sign may bear the legend "LONG LOAD."

(3) Warning signs shall be displayed to the front and rear of the vehicle or combination and shall meet the following requirements:

(a) Signs shall be seven feet wide by 18 inches high with black letters 10 inches high with 1-5/8 inch brush stroke in accordance with Federal Highway Administration series C on highway yellow background;

(b) The highway yellow background of the sign shall be made of reflectorized material when operating between one half hour after sunset and one half hour before sunrise;

(c) Signs must be kept clean, legible and mounted horizontally with adequate support to provide full visibility and readability at all times when in use;

(d) Signs may have a border with not more than 1-5/8 inch brush stroke around the edge of the sign;

(e) Signs shall not cover or interfere with the visibility of the Oregon tax identification plate or registration plate; and

(f) All such signs shall be removed or retracted when not required.

(4) The outermost extremities of any overwidth load shall be marked during daylight hours with red flags not less than 12 inches square. Flags must be kept clean and must be clearly visible to the front and rear. The attachment device shall not extend beyond the widest extremity by more than three inches on either side.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99; TO 2-2001, f. & cert. ef. 6-14-01

734-076-0145

Maximum Weights

(1) Maximum weight for towing vehicles are as follows:

(a) Class A and Class D tow vehicles shall conform to ORS 818.010;

(b) All towing vehicles shall conform to ORS 818.010 when towing a disabled unit by draw bar or tow chain method; and

(c) When any portion of the weight of the disabled unit rests upon a Class B or Class C tow vehicle:

(A) A single drive axle may not exceed 600 pounds per inch of tire width not to exceed 23,000 pounds on a single axle;

(B) A tandem drive axle may not exceed 600 pounds per inch of tire width not to exceed 23,000 pounds on each axle or 46,000 pounds on the tandem axle;

(C) Any group of three or more axles may not exceed 600 pounds per inch of tire width not to exceed the weight allowed by **Weight Table 3** (permit attachment); and

(D) The steering axle of the towing vehicle must carry sufficient weight required to maintain a safe operation and at no time shall weigh less than 3,000 pounds for Class B tow vehicles or 3,500 pounds for Class C tow vehicles.

(2) Maximum weights for disabled units are as follows:

(a) When being towed by Class A or any Class D tow vehicle, all weights shall conform to ORS 818.010;

(b) When being towed by a Class B or Class C tow vehicle using a draw bar or tow chain method, the weight of the disabled unit shall conform to ORS 818.010 or to the transportation variance permit issued to the disabled unit;

(c) When a Class B or Class C tow vehicle carries a portion of the weight of the disabled unit, the first load bearing axle(s) of the disabled unit may weigh 600 pounds per inch of tire width, not to exceed 21,500 pounds on any single axle or 43,000 pounds on a tandem axle, unless otherwise provided by a transportation variance permit issued to the disabled unit; and

(d) When being towed by a log truck or full log truck "towing vehicle," the weight of the disabled unit shall conform to ORS 818.010 or to the transportation variance permit issued to the disabled unit.

(3) Except when operating by single trip permit, group of axle weights and the gross weight shall not exceed the weight allowed by Permit **Weight Table 3** [Table not included. See ED. NOTE], and the combined gross weight shall not exceed 98,000 pounds.

(4) A load recovery vehicle consisting of a truck-tractor semi-trailer may transport a divisible or non-divisible load. Except when operating under a single trip permit, the weight shall not exceed 600 pounds per inch of tire width, not to exceed 21,500 pounds on a single axle or 43,000 pounds on a tandem axle, not to exceed the weight stated in Permit **Weight Table 3** and not to exceed 98,000 pounds. Lift axles must be deployed when axle weights exceed that allowed under ORS 818.010.

(5) A solo recovery vehicle may transport a non-divisible load and the weight shall not exceed 600 pounds per inch of tire width, not to exceed 21,500 pounds on a single axle or 43,000 pounds on a tandem axle and not to exceed the weight stated in Permit **Weight Table 3**.

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

Stat. Auth.: ORS 184.616 & ORS 818.619

Stats. Implemented: ORS 818.170

Hist.: 1 OTC 17-1980(Temp), f. & ef. 9-19-80; 2HD 1-1981, f. & ef. 1-28-81; HWY 8-1997, f. & cert. ef. 8-26-97, Renumbered from 734-076-0025; TO 1-1999, f. & cert. ef. 2-19-99

734-076-0155

Maximum Dimensions

(1) Height and Width: No disabled unit, including load, shall exceed 14 feet in height or eight feet-six inches in width, except:

(a) When initially operating under a transportation permit authorizing a greater height or width issued to the disabled vehicle, the allowances granted and restrictions imposed by that permit shall apply only to movement over highway routes described in the permit; or

(b) Where an accident or collision has resulted in a width greater than eight feet-six inches, but not exceeding 10 feet in width. In that event, during daylight hours the extreme width shall be marked by red flags not less than 12 inches square visible to the front and rear, and during the hours of darkness the extreme width shall be illuminated by clearance lights or markers as described in ORS Chapter 816.

(c) Rear View Mirrors — Towing vehicles or load recovery vehicles transporting overwidth units shall be equipped with rear-view mirrors capable of affording the operator a view to the rear of the disabled unit or load. Such mirrors may exceed the width authorized by the transportation permit by five inches on each side, but must be retracted to legal width when an overwidth disabled unit is not being transported.

(2) Length:

(a) Except as described in subsection (d) of this section, Class A, B, and C tow vehicles shall not exceed 40 feet. Class D tow vehicles shall not exceed 45 feet;

(b) The length of any towed vehicle shall not exceed the length established by statute or rule unless authorized by a transportation permit issued to the vehicle. Combination length of towed vehicles

may be temporarily extended when towing provided the combination was of legal length prior to the incident;

(c) A log truck or full log truck "towing vehicle" shall not exceed 40 feet in length. A log truck or full log truck "towing vehicle" shall not tow a loaded log truck and pole trailer combination that exceeds the lengths established by OAR 734-071-0010; and

(d) When a Class B or C tow vehicle is using a towing device to tow another vehicle, the length of the tow vehicle and towing device shall not exceed 55 feet in total length and the distance between the rear bumper of the towing vehicle and the front or foremost point of the towed vehicle shall not exceed five feet.

Stat. Auth.: ORS 184.616, 184.619 & ORS 810.060

Stats. Implemented: ORS 818.170

Hist.: 1 OTC 17-1980(Temp), f. & ef. 9-19-80; 2HD 1-1981, f. & ef. 1-28-81; HWY 8-1997, f. & cert. ef. 8-26-97, Renumbered from 734-076-0030; TO 1-1999, f. & cert. ef. 2-19-99; TO 1-2000, f. & cert. ef. 1-20-00

734-076-0165

Pilot Vehicle(s)

(1) Pilot vehicles may be needed to ensure the safety of the traveling public when the tow vehicle and disabled unit involve excessive width, height, length or projections to the front or rear of vehicles or combinations of vehicles. The configuration of such pilot vehicle(s) shall be a passenger car, pick-up, truck or truck-tractor of legal size and weight. Combinations of vehicles are not allowed as pilot vehicles. The number of pilot vehicles required for certain movements is shown on permit Attachment 76-A, which is provided with the permit.

(2) Pilot vehicles escorting oversize loads or vehicles are required to have the following:

(a) Warning signs mounted above the roofline of the vehicle. This sign shall bear the legend "OVERSIZE LOAD." The sign shall be at least five feet wide by ten inches high and have black letters eight inches high with one-inch brush stroke in accordance with Federal Highway Administration series B, on highway yellow background. The sign shall be displayed only during the course of the oversize movement, and shall be removed or retracted at all other times. The sign must be clean, legible and mounted adequately to afford full view at all times, when in use, to the front or rear depending upon location of pilot vehicle or relative to the oversize unit.

(b) Warning lights are required in addition to those lights that may otherwise be required by law. The warning lights shall be displayed only during the course of the oversize movement, and at all other times the requirements found in ORS 816.350(7) shall apply. Strobe lights are allowed. These lights shall be mounted above the roof of the cab, be clearly visible from 500 feet, have a minimum of 30 flashes per minute and be either:

(A) Two flashing amber lights as widely spaced laterally as is practical;

(B) Revolving type amber light(s); or

(C) Amber type strobe light(s) with 360 degree visibility.

(c) Two-way radio communications between the towing vehicle and the pilot vehicle(s) must be maintained at all times.

(d) Two 18-inch-square red flags mounted on three-foot length staffs shall be carried by each pilot vehicle. The pilot vehicle operator shall use the flags to warn oncoming or overtaking traffic when the oversize unit is stopped and obstructing traffic; and

(e) Eight safety flares or reflectors. Safety flares may not be used when the movement involves hazardous materials.

(3) The number of pilot vehicles required for certain movements is shown on Permit Attachment 76-A, which is issued with permits requiring pilot vehicles. The Chief Engineer is authorized to alter the number of pilot vehicles from those specified in permit Attachment 76-A depending upon local conditions, seasonal traffic, construction projects or other considerations. The permit will reflect altered requirements.

(4) Permit Attachment 76-A is available from the Motor Carrier Transportation Division, Over-Dimensional Permit Unit.

(5) The highway classification groups referred to in Permit Attachment 76-A are established and maintained by the Chief Engineer.

(6) Positioning of pilot vehicles — Unless specified otherwise, the pilot vehicle(s) shall be positioned ahead of (when one is required) or to the front and rear of (when two or more are required) the oversize unit at a distance of 300 feet to 500 feet from the unit.

In areas where traffic congestion is encountered, where traffic is controlled by signals or where other conditions may require, the spacing shall be reduced as may be required to properly safeguard the traveling public.

(7) When for any cause the oversize unit is stopped and occupies or encroaches onto the highway's travel lane, the pilot vehicle(s) shall be positioned to warn and safeguard other traffic approaching from any direction from which visibility or sight distance may be limited.

(8) Duties of pilot vehicle operators:

(a) Warn approaching and/or overtaking traffic of the unit's presence on the highway to provide a maximum of protection and safety for the traveling public; and

(b) When encountering bridges, structures, tunnels or other locations where clearances may be limited to the extent that normal two-way traffic cannot be maintained, the pilot vehicle operator shall signal by hand or radio to the towing vehicle driver when the oversize unit can proceed without conflict to approaching traffic. As the oversize unit then proceeds through such areas of impaired clearance, the pilot vehicle operator shall warn approaching traffic.

(9) Pilot vehicle(s) are considered to be under the direct control and supervision of the tow truck operator.

(10) Specific identified locations may require additional precautions. Permits shall specify locations that require certified flagging to be conducted. The flagging shall be conducted in accordance with the standards in the Manual on Uniform Traffic Control Devices as adopted in OAR 734-020-0005.

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

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.220

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99; TO 2-2001, f. & cert. ef. 6-14-01

734-076-0175

Approved Routes

(1) When removing a load or vehicles from the initial emergency, towing vehicles or load recovery vehicles operating under Division 76 rules may operate on all state highways. Thereafter, vehicles may operate over Group 1 highways shown on **Group Map 1** or approved routes shown on **Route Map 7**, or approved routes shown on the permit issued to the disabled unit. Overweight vehicles and combinations of vehicles may not operate on highways with weight restrictions shown on **Route Map 2**. **Group Map 1**, **Route Map 2**, and **Route Map 7** are available from the Over-Dimensional Permit Unit, Motor Carrier Transportation Division, 550 Capitol Street NE, Salem OR 97310. [Exhibits not included. See ED. NOTE.]

(2) The Chief Engineer may add additional highway routes to those approved for operation or delete from the approved routes any highway or section of highway when continued operation of the units is not in the public's best interest.

(3) This rule does not authorize operation over highways, streets, or roads not under the jurisdiction of the Department of Transportation. For such operations, separate permission must be obtained from the appropriate authority.

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

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: 1 OTC 17-1980(Temp), f. & ef. 9-19-80; 2HD 1-1981, f. & ef. 1-28-81; HWY 8-1997, f. & cert. ef. 8-26-97, Renumbered from 734-076-0055; TO 1-1999, f. & cert. ef. 2-19-99

734-076-0185

Hauling Hours and Days

(1) Except as provided in section (3) of this rule, hauling hours and days shall be those authorized as follows:

(a) When operating on interstate highways and other highways approved by the Chief Engineer, movement between one-half hour after sunset and one-half hour before sunrise is allowed if:

(A) Width is not in excess of ten feet; and

(B) The outermost extremities are illuminated by lamps or markers as described by the requirements of ORS Chapter 816.

(b) If the width exceeds eight feet six inches or if towing a combination of vehicles, movement is not allowed as provided in subsection (1)(a) of this rule:

(A) During any hours on State-observed holidays, which for the purpose of Division 76 rules, are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;

(B) After 2:00 p.m. on the last business day preceding the State-observed holiday through one-half hour before sunrise of the first business day following the observed holiday;

(C) From noon on the Wednesday preceding Thanksgiving Day until one-half hour before sunrise on Monday following Thanksgiving Day;

(D) During daylight hours Saturday afternoons and Sundays after Memorial Day and before Labor Day;

(E) When wind or other conditions may cause the vehicle or vehicles to swerve, to whip, to sway or fail to follow substantially in the path of the towing vehicle;

(F) When road surfaces are hazardous due to ice, snow or frost; or

(G) When visibility is less than 500 feet due to snow, mist, rain, dust, smoke, fog or other atmospheric conditions.

(2) The Chief Engineer may impose or alter time of travel restrictions. Alterations may be necessary to prevent conflict with highway construction or repair projects, or to cope with local or seasonal traffic conditions.

(3) The provisions of section (1) of this rule do not apply when:

(a) Performing the initial emergency removal of the disabled unit from the highway;

(b) Acting at the direction of a peace officer; or

(c) The disabled vehicle or combination of vehicles is operating under a rule or variance permit allowing movement prior to the emergency.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.170

Hist.: HWY 8-1997, f. & cert. ef. 8-26-97; TO 1-1999, f. & cert. ef. 2-19-99

DIVISION 77

TRANSPORTATION OF FOOD PROCESSING PLANT BY-PRODUCTS FROM WHICH THERE IS FLUID LEAKAGE

734-077-0005

Scope

OAR chapter 734, division 77 shall apply to and govern the issuance of permits by the Department of Transportation for the movement of vehicles transporting certain agricultural products as identified in OAR 734-077-0007, from which there is fluid leakage as provided in ORS 818.230.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82; 2HD 5-1985, f. & ef. 11-22-85

734-077-0007

Authorized Commodities

Permits shall be issued only for the following:

(1) Vehicles transporting food processing plant by-products to be used for livestock feed or fertilizer from which there is a fluid leakage; or

(2) Vehicles transporting agricultural products from which there is fluid leakage, while the vehicles are enroute from the place of harvest to a place where the products will be processed, stored or sold.

Stat. Auth.: ORS 184, 366 & ORS 818

Stats. Implemented: ORS 818.230

Hist.: 2HD 5-1985, f. & ef. 11-22-85

734-077-0010

Application for Permit

(1) Application for a permit may be made in person or by mail to the Over-Dimensional Permit Unit, 550 Capitol St. NE, Salem, Oregon 97301-2530.

(2) Telephone applications may be made by calling (503) 373-0000 and the executed permit will be transmitted electronically for pick-up by the applicant at the nearest state office equipped with a receiving device.

(3) In addition to routine information such as permittee name, address and vehicle identification, the application must include:

(a) Identification of food process plant where the movement will originate.

(b) The state highways to be traveled.

(c) The highway mile point or other identifiable geographical point where the movement will leave the state highway.

(4) Permits will not be issued when an application is incomplete.

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

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82; HWY 11-1997, f. & cert. ef. 12-22-97; TO 2-2001, f. & cert. ef. 6-14-01

734-077-0015

Authorized Routes

(1) It is intended that highway routes authorized in the permit will in general be those routes requested in the application. As authorized under ORS 818.220(1)(c), however, the Department of Transportation may, at its discretion, amend permits to designate alternate routes if the amount or character of fluid leakage is such that an alternate route would be in the public interest.

(2) Authority to operate over highways, streets or roads not under Department of Transportation jurisdiction is not granted in this rule or by any permit issued under this rule. For operation on county roads or city streets separate permission must be obtained from appropriate county or city authorities.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82

734-077-0020

Authorized Vehicles

Notwithstanding any limitation imposed under OAR 734-077-0040 a permit may be issued under these rules for the operation of any vehicle or combination of vehicles meeting the requirements of ORS 818.080, 818.110 or rules adopted pursuant to ORS 810.060, provided, however, that combinations of vehicles as described in OAR 734-074-0005 exceeding 75' in overall length are not authorized.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82

734-077-0025

Hours and Days of Operation

Notwithstanding any limitation imposed under OAR 734-077-0040 there is no restriction as to days and hours of operation.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82

734-077-0030

Insurance Requirements

As provided in ORS 818.220(1)(d) and (e) the Department of Transportation may at its discretion require, as a permit condition, the applicant to furnish satisfactory evidence of public liability and property damage insurance.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82

734-077-0035

Permit Duration and Cancellation

(1) Permits may be issued for periods of time up to one year.

(2) Permits may be revoked under the provision of ORS 818.230(4) if the amount or character of the fluid leakage is such that it constitutes a danger to other vehicles.

(3) Permits may be cancelled under the provision of ORS 818.220(7) if:

(a) The permit holder has violated any of the terms of the permit;

(b) The permit was obtained through misrepresentation in the application therefor; or

(c) The public interest requires cancellation.

Stat. Auth.: ORS 184 & ORS 366

Stats. Implemented: ORS 818.230

Hist.: 2HD 6-1982, f. & ef. 10-25-82

734-077-0040

Leakage Restrictions

(1) Fluid leakage will be permitted only to an extent and under conditions which will not create a safety or health hazard to the general public. Excessive loss of fluid containing residue which can cloud the windshields of other vehicles, the creation of a build-up of residue causing slippery pavement conditions, or the excessive loss of fluid from parked hauling vehicles causing unsanitary conditions adjacent to restaurants or other businesses, or residences may result in revocation of the permit.

(2) The Chief Engineer may impose additional permit provisions in excess of those required by this rule, but in accordance with ORS 818.220 as he deems necessary to provide a maximum of highway safety for the driving public.

Stat. Auth.: ORS 184 & ORS 366
Stats. Implemented: ORS 818.230
Hist.: 2HD 6-1982, f. & ef. 10-25-82

DIVISION 78**TRANSPORTATION OF OVERLENGTH LOGS, POLES, PILING, AND STRUCTURAL MEMBERS****734-078-0005****Scope**

These rules shall apply to and govern the issuance of permits by the Department of Transportation, for the movement of vehicles transporting logs, poles, piling and structural members which, when loaded, have overall lengths in excess of those permitted by Oregon Revised Statutes or by OAR chapter 734, division 71.

Stat. Auth.: ORS 184, 366 & ORS 818
Stats. Implemented: ORS 818.220
Hist.: 2HD 4-1983, f. & ef. 1-20-83

734-078-0010**Application for Permit**

(1) Application for permits may be made in person or by mail to the Transportation Permit Unit, 550 Capitol St. NE, Salem, Oregon 97310.

(2) Telephone applications for permits may be made by calling toll free 1-800-336-3602 and the executed permit will be transmitted electronically for pick up by the applicant at the nearest state office equipped with a receiving device.

(3) Routine information such as permittee name, address and vehicle identification must be included for the application.

(4) Permits will not be issued when an application is incomplete.

Stat. Auth.: ORS 184.616 & ORS 184.619
Stats. Implemented: ORS 818.220
Hist.: 2HD 4-1983, f. & ef. 1-20-83; HWY 8-1997, f. & cert. ef. 8-26-97

734-078-0015**Types of Vehicle Combinations Authorized**

(1) Permits may be issued only for the following types of vehicle combinations:

(a) Log truck and pole trailer coupled together by stinger and reach. The stinger is to be at least five feet in length;

(b) Log truck and independently operated manually or mechanically steered trailer;

(c) Truck tractor semitrailer and trailer combination. The trailers shall be coupled together by stinger and reach and the distance from the front of the first trailer to the rear of the second trailer shall not exceed 68 feet;

(d) Truck and trailer coupled together by means of a stinger and the trailer tongue. The stinger is to be at least five feet in length;

(e) Truck transporting a pole by means of a pole dolly and pole drawbar device that is attached to the leading end of the pole and attached to the towing vehicle by means of a pintle hook; and

(f) The Chief Engineer may designate other types of vehicle combinations, which in the Chief Engineer's determination fit the scope and purpose of these rules.

(2) A stinger is measured longitudinally from a point located opposite the back of the tread of the tires of the last axle on the truck to the point of coupling.

Stat. Auth.: ORS 184.616 & ORS 184.619
Stats. Implemented: ORS 818.220
Hist.: 2HD 4-1983, f. & ef. 1-20-83; HWY 8-1997, f. & cert. ef. 8-26-97

734-078-0020**Approved Routes and Allowable Overall Lengths**

(1) The allowable overall lengths for the combinations of vehicles and load subject to these rules shall not exceed those lengths indicated for the various highways listed on permit attachment 17, available from the Over-Dimensional Permit Unit, Motor Carrier Transportation Division, 550 Capitol Street NE, Salem, OR 97310.

(2) All state highways approved for operation of vehicle combinations and loads under permit are those indicated on permit attachment 17. Separate permission must be obtained from proper authorities for operation over county roads, city streets or other roads not under State Highway jurisdiction.

(3) As various state highways or sections thereof are reconstructed or improved to an extent that longer overall vehicle and load lengths can safely travel the highway, the Chief Engineer may by written order and at the Chief Engineer's discretion authorize lengths in excess of those indicated on permit attachment 17. In the same manner, the Chief Engineer may add additional highways, or sections thereof with corresponding overall lengths as the Chief Engineer deems appropriate to those highways listed on permit attachment 17.

(4) If the vehicle combination consists of a log truck and independently operated manually or mechanically steered trailer an overall length will be permitted which exceeds by fifteen feet those indicated on permit attachment 17.

(5) A load may include related items provided it does not exceed the length allowed for the longest permitted item.

Stat. Auth.: ORS 184.616 & ORS 184.619
Stats. Implemented: ORS 818.220
Hist.: 2HD 4-1983, f. & ef. 1-20-83; HWY 8-1997, f. & cert. ef. 8-26-97

734-078-0025**Days of Travel and Peak Traffic Hour Restrictions**

(1) The combinations of vehicles described in rule 734-078-0015, which when loaded exceed 105 feet overall length, are prohibited from operation:

(a) Unless otherwise specified in this section, during any hours on observed holidays, movement shall be prohibited after 2:00 p.m. on the last business day preceding the observed holiday through sunrise of the first business day following the observed holiday. The holidays to which this restriction applies are New Year's Day, Memorial Day, Independence Day, Labor Day and Christmas Day;

(b) From noon on Wednesday preceding Thanksgiving Day until sunrise on Monday following Thanksgiving Day; and

(c) During daylight hours Saturday afternoons and Sundays after Memorial Day and before Labor Day.

(2) When operating on the Interstate Highway System, movement is authorized during the hours between sunset and sunrise, except on holidays, as indicated in section (1) of this rule, provided that:

(a) Intermediate side marker lights as described in ORS Chapter 816 are placed on each side at intervals of not more than 20 feet between the tail lights of the towing vehicle and the tail lights of the trailer; and

(b) Projections beyond rear of motor vehicles. Motor vehicles transporting loads which extend more than four feet beyond the rear of the motor vehicle, or which have tailboards or tailgates extending more than four feet beyond the body, shall have projections marked as follows:

(A) On each side of the projecting load, one red lamp, visible from the side, located so as to indicate maximum overhang; and

(B) On the rear of the projecting load, two red lamps, visible from the rear, one at each side, and two red reflectors visible from the rear, one at each side, located so as to indicate maximum width.

(3) The Oregon Department of Transportation, Motor Carrier Transportation Division may impose additional regulations pertaining to days and hours of operation for the transportation of logs, poles and piling. Permittees should determine the existence of any such regulations.

Stat. Auth.: ORS 184.616 & ORS 184.619
Stats. Implemented: ORS 818.220
Hist.: 2HD 4-1983, f. & ef. 1-20-83; 2HD 7-1986, f. & ef. 11-21-86; HWY 8-1997, f. & cert. ef. 8-26-97

734-078-0030

Warning Signs and Flags Required

(1) When the combinations of vehicles and load exceed 80 feet in overall length a "Long Load" or "Oversize Load" sign is required to be attached to the rearmost position practical, either on the load or the last vehicle:

(a) The sign shall be seven feet wide by 18 inches high with black letters 10 inches high and having a 1-5/8 inch wide brush stroke in accordance with Federal Highway Administration series C on highway yellow background;

(b) The highway yellow background of the sign shall be made of reflectorized material when operating between sunset and sunrise;

(c) Signs must be kept clean, legible, and mounted with adequate support to provide full visibility at all times when in use;

(d) Signs may have a border with not more than 1-5/8 inch brush stroke around the edge of the sign;

(e) Signs made of mesh, or other materials that do not provide a continuous highway yellow background are not allowed;

(f) Signs must be constructed of a material impervious to water; and

(g) All signs shall be removed or retracted when not required.

(2) When a load extends beyond the rear body of the vehicle four feet or more, the outermost extremity of the load shall be visibly marked with a red flag not less than 12 inches square. Flags made of mesh fabric are not allowed. The attachment device shall not extend beyond the rear of the load by more than three inches.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.220

Hist.: 2HD 4-1983, f. & ef. 1-20-83; HWY 8-1997, f. & cert. ef. 8-26-97

734-078-0035

Pilot Vehicles

(1) Pilot vehicles may be needed to insure the safety of the traveling public when vehicle and load movements involve excessive width, height, length or projections to the front or rear of vehicles or combinations of vehicles. The configuration of such pilot vehicle(s) shall be a passenger car, pick-up, truck or truck-tractor of legal size and weight. Combinations of vehicles are not allowed as pilot vehicles. The number of pilot vehicles required for certain movements is shown on Attachment 82-A, which is issued with permits requiring pilot vehicles.

(2) A pilot vehicle shall precede the loaded combination of vehicles when operating on the following highway sections:

(a) Alsea Highway, Ore 34, between M.P. 6.93 (Canal Creek Rd) and the Jct of US 20 near Philomath provided the overall length is in excess of 90 feet;

(b) Corvallis-Newport Highway, US 20, between Blodgett and Philomath provided the overall length is in excess of 80 feet;

(c) Coos Bay-Roseburg Highway, Ore 42, between Coos/ Douglas County line and Camas Valley provided the overall length is in excess of 80 feet;

(d) Mist-Clatskanie Highway, Ore 47, entire highway, provided the overall length is in excess of 80 feet;

(e) Silver Creek Falls Highway, Ore 214, between M.P. 31.09 (Drakes Crossing) and Silverton provided the overall length is in excess of 80 feet;

(f) Siletz Highway, Ore 229, between M.P. 9.66 and M.P. 15.23 provided the overall length is in excess of 50 feet;

(g) Coos River Highway No. 241, between Jct. US 101 and M.P. 15.04 (near Allegany) provided the overall length is in excess of 70 feet.

(3) As highway conditions may change due to construction, relocation, or other factors and as additional highway sections may be added to the approved routes shown on permit attachment 17, the Chief Engineer may as deemed appropriate and at the Chief Engineer's discretion add to, delete, or revise the list of pilot vehicle requirements in section (1) of this rule.

(4) Pilot vehicles are required to have the following equipment:

(a) Warning signs mounted above the roofline of the vehicle. This sign shall bear the legend "OVERSIZE LOAD." The sign shall be at least five feet wide by ten inches high, have black letters eight inches high with one-inch brush stroke in accordance with Federal Highway Administration series B, on highway yellow background. Signs made of mesh fabric, or other materials that do not provide a continuous yellow background, are not allowed. The sign shall be displayed only during the course of the oversize movement and shall

be removed or retracted at all other times. The sign must be kept clean, legible, and mounted adequately to afford full view at all times, when in use, to the front or rear depending upon location of pilot vehicle or relative to the oversize unit;

(b) Warning lights are required in addition to those lights that may otherwise be required by law. Strobe lights are allowed. These lights shall be clearly visible from 500 feet and be either:

(A) Two flashing amber lights clearly visible from the front and rear. These lights shall have a minimum lens diameter of four inches, be rated at a minimum of 35 candlepower, and emit a minimum of 30 flashes per minute; or

(B) At least one revolving type amber light that has at least 125 square inches of dome surface, and emits at least 30 flashes per minute.

(c) Two way radio communications between the oversize vehicle and the pilot vehicle(s) must be maintained at all times;

(d) Two 18-inch square red flags mounted on three-foot length staffs shall be carried by each pilot vehicle for use in directing traffic. The pilot vehicle operator shall use the flags to warn oncoming or overtaking traffic when the oversize unit is stopped and obstructing traffic; and

(e) Eight safety flares or reflectors. Safety flares may not be used when the movement involves hazardous materials.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.220

Hist.: 2HD 4-1983, f. & ef. 1-20-83; HWY 8-1997, f. & cert. ef. 8-26-97

734-078-0040

Permit Cancellation

Permits may be cancelled as provided in ORS 818.220(7).

Stat. Auth.: ORS 184, 366 & ORS 818

Stats. Implemented: ORS 818.220

Hist.: 2HD 4-1983, f. & ef. 1-20-83

734-078-0045

Permit Duration

At the discretion of the Chief Engineer permits may be issued for periods of time not to exceed one year.

Stat. Auth.: ORS 184, 366 & ORS 818

Stats. Implemented: ORS 818.220

Hist.: 2HD 4-1983, f. & ef. 1-20-83

DIVISION 79

PERMIT EXEMPTIONS

734-079-0005

Scope and Purpose

A combination of vehicles consisting of a log truck and pole trailer equipped for self loading and transporting logs may operate with a permit allowing the weight provisions of ORS 818.210(3) only if:

(1) The combination does not exceed the maximum allowable length limitations established in OAR chapter 734, division 71, as indicated on Group Map 1. Group Map 1, dated April 1999, available from the Over-Dimensional Permit Unit, is by reference made a part of this rule; and

(2) The combination meets any other restrictions that may be imposed pursuant to ORS Chapter 818.

[ED. NOTE: The map referenced in this rule is available from the agency]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 818.200

Stats. Implemented: ORS 818.210

Hist.: 2HD 4-1984, f. & ef. 3-14-84; HWY 11-1997, f. & cert. ef. 12-22-97; TO 2-2001, f. & cert. ef. 6-14-01

734-079-0015

Application for Permit

(1) Application for a permit may be made in person or by mail to the Over-Dimensional Permit Unit, 550 Capitol St. NE, Salem, Oregon 97301-2530.

(2) Telephone applications may be made by calling 1-503-272-0000 and the executed permit will be transmitted electronically for pick-up by the applicant at the nearest state office equipped with a receiving device.

(3) Routine information such as permittee name, address and vehicle identification must be included with the application.

(4) Permits will not be issued when an application is incomplete.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.220
Hist.: TO 2-2001, f. & cert. ef. 6-14-01

734-079-0025

Permit Duration and Cancellation

- (1) Permits may be issued for periods of time up to one year.
 - (2) Permits may be canceled under the provisions of ORS 818.220(7) if:
 - (a) The permit holder has violated any of the terms of the permit;
 - (b) The permit was obtained through misrepresentation in the application therefor; or
 - (c) The public interest requires cancellation.
- Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200
Stat. Imp.: ORS 818.220
Hist.: TO 2-2001, f. & cert. ef. 6-14-01

DIVISION 80

DESIGNATED SCENIC AREAS

[ED. NOTE: Previous rules relating to the Designation of Scenic Areas were adopted by the Bureau of Labor by Administrative Order BL 78, f. 3-15-63. They were statutorily transferred to the Highway Commission.]

734-080-0005

Designated Scenic Areas

Table 1 is a listing by petition number of the Administrative Orders of the Department of Transportation indicating those areas that have been designated as Scenic Areas.

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

Stat. Auth.: ORS 377
Stats. Implemented: ORS 377.540
Hist.: HC 1031 (SAB 2), f. 4-29-64, ef. 6-1-64; HC 1080 (SAB 10), f. 10-29-67; HC 1090 (SAB 11), f. 1-7-66; HC 1112 (SAB 12), f. 10-7-66; HC 1131 (SAB 13), f. 1-5-67; HC 1145 (SAB 14), f. 7-7-67; HC 1146 (SAB 15), f. 8-16-67; HC 1159 (SAB 16), f. 1-5-68; HC 1177 (SAB 17), f. 9-26-68; HC 1178 (SAB 18), f. 10-11-68; HC 1179 (SAB 19), f. 11-6-68; HC 1180 (SAB 20), f. 11-7-68; HC 1185 (SAB 21), f. 1-10-69; HC 1189 (SAB 22), f. 1-30-69; HC 1203 (SAB 23), f. 7-15-69; HC 1237 (SAB 24), f. 11-20-70; HC 1239 (SAB 25), f. 12-28-70; HC 1254 (SAB 26), f. 6-21-71

DIVISION 82

VARIANCE PERMITS ISSUED FOR NON-DIVISIBLE LOADS AND ROAD USE ASSESSMENT FEES

734-082-0001

Scope

OAR chapter 734, division 82 governs permits issued for vehicles or loads having weight or dimension greater than that allowed by statute.

Stat. Auth.: ORS 810.050 & 818.200
Stats. Implemented: ORS 818.220 & 818.225
Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0002

Duration

Permits issued under division 82 are valid from the effective date for a single trip within a ten consecutive day period, multiple trips within a 30 consecutive day period or continuous trips for one year.

Stat. Auth.: ORS 810.050 & 818.200
Stats. Implemented: ORS 818.220 & 818.225
Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0003

Fee

- (1) The permit fees required by ORS 818.270 shall be paid to the granting authority for every permit issued, except for permits issued to the federal government, State of Oregon, counties, and cities which are exempt pursuant to ORS 818.200(2).
- (2) Motor carriers having valid Oregon Department of Transportation authority may request that these fees be billed on a monthly basis. Accounts shall be determined to be delinquent under ORS 818.225 when:

- (a) Billed fees have not been paid within 60 days of the billing date; or
- (b) Reports from carriers used to determine fees have not been filed within 30 days of the mileage report request date.
- (3) Motor carriers with delinquent accounts are not eligible for variance permits until all fees are paid.
- (4) Road use assessment fees for gross weights up to 240,000 pounds are shown in a table prepared and maintained by the Chief Engineer. The fee is determined by the motor carrier's declaration of gross weight and number of axles used. If gross weight exceeds 240,000 pounds, the road use assessment fees will be computed by the department.
- (5) The road use assessment fees for any carrier may be increased based on actual weighing by State Motor Carrier Enforcement Officers and other authorized personnel or through audit by the Oregon Department of Transportation.
- (6) The road use assessment fees are not refundable unless the trip is not made.

Stat. Auth.: ORS 184.616, 184.619, 810.050, 818.200 & ORS 818.225
Stats. Implemented: ORS 818.220 & ORS 818.225
Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1991(Temp), f. & cert. ef. 8-23-91; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0004

Permits Issued

Permits authorized by division 82 are issued to the transporting motor vehicle. The vehicle or combination of vehicles must be of legal size and weight except when operating under the terms of a permit. A permit may be issued for a load consisting of multiple items that are non-divisible.

Stat. Auth.: ORS 810.050, 818.060 & 818.200
Stats. Implemented: ORS 818.220 & 818.225
Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0005

Definitions

As used in OAR chapter 734, division 82:

- (1) "Auxiliary axle(s)" is an axle that qualifies as a booster axle, flip axle, or lift axle.
- (2) "Boom dolly" means a separate vehicle designed to carry part of the weight of a boom.
- (3) "Booster axle(s)" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning.
- (4) "Business day" is any day Monday through Friday, except holidays as defined in section (13) of this rule.
- (5) "Chief Engineer" means the Chief Engineer of the Oregon Department of Transportation or a person designated to act for the Chief Engineer.
- (6) "Daylight hours" shall mean one-half hour before sunrise until one-half hour after sunset.
- (7) "Dolly" means those devices attached to a frame, deck or load converting the frame to a trailer or semitrailer and is included in the measurement of the trailer. The dolly must bear weight when the permitted vehicle is laden.
- (8) "Dromedary truck-tractor" means a motor vehicle having more than 15,000 pounds GVWR designed to carry a load on a dromedary box, plate or deck, not exceeding 12'06" in length inclusive of load and designed to pull a semitrailer.
- (9) "Equivalent Single-Axle Load" (ESAL) means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962.
- (10) "Fire apparatus" means a vehicle or combination of vehicles designed and used exclusively for fire suppression or rescue operations. These emergency vehicles and associated loads or equipment are necessary to protect the public safety and are considered non-divisible loads.
- (11) "Flip axle(s)" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed

position on the ground extending the length or hauling capacity of the trailer.

(12) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298.

(13) "Holiday" for the purposes of these rules means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and includes any other days on which the state officially observes the aforementioned holidays by the closure of State offices.

(14) "Jeep axle(s)" means a separate vehicle connected to a motor vehicle by kingpin to fifth wheel connection. A jeep axle(s) shall bear all or part of the weight of the load of another vehicle and shall be connected to that other vehicle either by kingpin to fifth wheel connection or a pintle hook.

(15) "Lift axle" means an axle that can be raised from or lowered to the surface of the ground.

(16) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(17) "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers, and having more than 15,000 pounds GVWR.

(18) "Non-divisible load" means any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would:

(a) Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;

(b) Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or

(c) Require more than eight workhours to dismantle using appropriate equipment. The applicant for a non-divisible load permit has the burden of proof as to the number of workhours required to dismantle the load.

(19) "Passenger vehicle" or "light vehicle" means a motor vehicle, regardless of design or intended use, having 15,000 pounds or less GVWR.

(20) "Permit Weight Table 1" is the table of legal weight found in ORS 818.010.

(21) "Permit Weight Table 2" is the Extended Weight Table used for oversize loads that cannot be reduced in size, except as specified in OAR 734-082-0051 and 734-082-0053, and having authorized divisible load weights. Permit Weight Table 2 is available from MCTD as Form 735-8111 (May, 2000).

(22) "Permit Weight Table 3" is a table based on two wheelbase weight formulas. The first formula is 1,000 times (the wheelbase in feet plus 40) for groups of axles or combinations of vehicles having 18 feet or less wheelbase. The second formula is 1,200 times (the wheelbase in feet plus 40) for groups of axles, vehicles or combinations of vehicles having more than 18 feet of wheelbase.

(23) "Permit Weight Table 4" is a table based on two wheelbase weight formulas. The first formula is 1,200 times (the wheelbase in feet plus 40) for groups of axles or combinations of vehicles having 18 feet or less wheelbase. The second formula is 1,400 times (the wheelbase in feet plus 40) for groups of axles, vehicles or combinations of vehicles having more than 18 feet of wheelbase.

(24) "Permit Weight Table 5" is a table using three wheelbase weight formulas. The first formula is 6,500 times the wheelbase when wheelbase is over eight feet but not more than ten feet. The second formula is 2,200 times (the wheelbase in feet plus 20) when wheelbase is more than ten feet but not more than 30 feet. The third formula is 1,600 times (the wheelbase in feet plus 40) when wheelbase is more than 30 feet.

(25) Primary haul" means the non-divisible load transported under OAR 734-082-0053.

(26) "Road use assessment fee" means a fee for each ESAL mile of travel as established by ORS 818.225.

(27) "Secondary haul" means the divisible load transported under OAR 734-082-0053.

(28) "Self propelled fixed load vehicle" means a vehicle with motive power designed and used primarily to support and move a permanent load in the form of equipment or appliances constructed as part of, or permanently attached to, the body of the vehicle.

(29) "Stinger steered" means the coupling device is located back of the tread of the tires of the last axle of the towing vehicle.

(30) "Transport" means to tow, haul, drive, or otherwise move a vehicle or load on the State highway system.

(31) "Truck-tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as being drawn and having more than 15,000 pounds GVWR.

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

Stat. Auth.: ORS 184.616, 184.619, 810.050 & 810.060

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0006

Acceptance of Permit

The receipt of a permit issued under these Division 82 rules by the permittee and initiation of any movement authorized by the permit is considered acceptance of all descriptions, terms and conditions contained in the permit and permit attachments.

Stat. Auth.: ORS 184.616, 184.619 & ORS 818.200

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 17-1990, f. & cert. ef. 12-28-90; TO 7-1998, f. & cert. ef. 8-20-98

734-082-0009

Fire Apparatus Authorization

(1) Fire apparatus are authorized to operate with a variance permit that is not subject to the maximum limits established in Division 82 when:

(a) Operating within the fire district boundary of the owner of the apparatus, including any "mutual aid" agreement area;

(b) Operating in response to any emergency act declared by the Governor; or

(c) Maintaining, deploying or re-deploying such fire apparatus.

(2) Fire apparatus operations conducted under a variance permit are subject to the terms of the variance permit.

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & ORS 818.200

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; HWD 1-2003, f. & cert. ef. 8-21-03

734-082-0010

Tires

(1) The permitted vehicles must be equipped with tires of sufficient size so the gross weight on any wheel, axle, tandem axle, or group of axles does not exceed 600 pounds per inch of tire width, except as provided in section (2) of this rule.

(2) By permit, unladen self-propelled or towed fixed-load vehicles, equipped with low pressure flotation tires (15-inch or larger) shall be permitted 700 pounds per inch of tire width to a maximum of 36,000 pounds on any single axle or 43,000 pounds on any tandem axle.

(3) In no case may any rim or wheel carry more weight than the weight specified by the manufacturer of the rim or wheel.

(4) In no instance shall the weight carried on a tire exceed the manufacturer's sidewall tire rating.

(5) A motor carrier transporting a single non-divisible permitted load that exceeds the weight limits allowed by ORS 818.010 may carry a total of two spare tires with or without wheels for the transporting equipment, and if transporting a vehicle, no more than one spare tire with or without wheel of each size used by the transported vehicle. The single non-divisible permitted load shall comply with the following dimensions:

(a) The width does not exceed eight feet six inches due to items loaded side by side or overlapping;

(b) The height does not exceed 14 feet due to items stacked one on the other; and

(c) The weight does not exceed that authorized by permit.

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & ORS 818.200

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 11-1992, f. & cert. ef. 9-16-9; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0015

Weight For Single Non-Divisible Loads

(1) The loaded weight of a group of axles, vehicle, or combination of vehicles shall not exceed that specified in the Permit Weight Table assigned to the permit. In no case shall the loaded weight exceed:

- (a) 21,500 pounds per axle, except as described in OAR 734-082-0010(2);
- (b) 43,000 pounds per tandem axle;
- (c) 98,000 pounds loaded weight for continuous trip permits;
- (d) The weight otherwise specified on the permit; or
- (e) The sum of the permissible axle, tandem axle, or group axle weight, whichever is less.

(2) Auxiliary axle(s) shall be deployed when the axle, tandem axle or group of axles exceeds the axle weight or bridge formula limits allowed by ORS 818.010 or when listed in the number of axles specified on the permit.

(3)(a) In a combination of two vehicles other than a truck-tractor and semitrailer, the axle and tandem axle weights listed in subsections (1)(a) and (b) of this rule may be allowed by permit for the towing vehicle or the towed vehicle, but not both, if the gross weight does not exceed that authorized in ORS 818.010 except;

(b) When the combination of vehicles is a motor truck and stinger-steered balance trailer, the axle and tandem axle weights listed in subsections (1)(a) and (b) of this rule may be allowed by permit for both vehicles if the load is carried on the balance trailer, and the towing vehicle is unladen.

(4) Overweight permits will be valid only for a single non-divisible load, except a permit may be issued for a single load consisting of multiple assembled parts constituting an integral whole with detached accessories included in the load, if the accessories are detached to reduce width, height, length, or a combination of these dimensions, and an overweight permit could have been issued for the load in its assembled condition.

(a) Single trip permits may be issued for combinations of vehicles having a steering axle followed by four or more consecutive tandem axles, provided the weight does not exceed:

- (A) 600 pounds per inch of tire width;
- (B) 24,000 pounds per axle, except as described in OAR 734-082-0010(2);
- (C) 48,000 pounds per tandem axle;
- (D) The weights listed in Permit Weight Table 5 for groups of axles; or

(E) The sum of the permissible axle, tandem axle, or group of axle weights, whichever is less.

(b) Additional weight for axles and/or tandem axles may be allowed by permit when the combination of vehicles described in subsection (a) of this section for axles having four tires and are ten feet wide (10 percent), or for axles having eight tires and are ten feet wide (25 percent). This additional weight must be specified on the permit, and applies only to axles or tandem axles. The weight for groups of axles remains the same.

(c) Permits issued under this section are subject to special routing and analysis by the Department of Transportation.

(d) All movements shall be subject to any posted weight limitation in effect on any highway, highway section, bridge, or structure.

(5) The road use assessment fee required in OAR 734-082-0003 is based on the weight requested for the permit. The weight shown on the permit is the maximum weight permitted.

(6) The Department of Transportation may publish tables of weights that may be authorized by these rules, subject to route analysis for each trip.

(7) In no instance may the vehicle combination exceed the manufacturer's GVWR for the vehicle or the vehicle combination and load.

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

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; TO 7-1998, f. & cert. ef. 8-20-98; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0016

Weights For Multiple Non-Divisible Loads

(1) The loaded weight of a group of axles, vehicle, or combination of vehicles shall not exceed that specified in the Permit Weight Table assigned to the permit.

(2) The maximum allowable weight for single axles and tandem axles shall not exceed those specified under ORS 818.010(1) and (2).

(3) When a group of axles or gross weight is 80,000 pounds or less, the maximum allowable weight shall not exceed those specified under ORS 818.010(3).

(4) When a group of axles or gross weight is more than 80,000 pounds, the maximum allowable weight shall not exceed those set forth in Permit Weight Table 2. In no case may gross weight exceed the sum of the permissible axle, tandem axle or group of axle weights, whichever is less.

Stat. Auth.: ORS 184.616 & 184.619

Stats. Implemented: ORS 818.220 & 818.225

Hist.: TO 8-2002, f. & cert. ef. 10-14-02

734-082-0020

Width

Permits are required for widths more than eight feet, six inches:

(1) Unless specifically stated on the permit as authorized by ORS Chapter 818 or rule, overwidth permits will not be valid if overwidth is caused by two or more items placed side by side or overlapping, or for items that could be loaded at a legal width.

(2) Items joined (by spot weld, tack weld, bolting, or strapping, etc.) to facilitate transport, shall be considered to be divisible loads and not eligible for overwidth permits.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.210, 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00

734-082-0021

Days of Travel and Peak Traffic Hour Restrictions

(1) When operating on interstate highways and other highways approved by the Chief Engineer, movement from one-half hour after sunset to one-half hour before sunrise is allowed if:

(a) Width is not in excess of 12 feet on interstate highways or 10 feet on all other approved highways; and

(b) The outermost extremities are illuminated by lamps or markers as described by the requirements of ORS Chapter 816.

(2) Movement of a vehicle or combination of vehicles exceeding eight feet six inches in width is not allowed:

(a) From one-half hour after sunset to one-half hour before sunrise except as allowed in section (1) of this rule;

(b) During any hours on holidays as defined in OAR 734-082-0005(13);

(c) After 2 p.m. on the last business day preceding the observed holiday through one-half hour before sunrise of the first business day following the observed holiday, except operations conducted in accordance with section (1) of this rule may recommence at 12:01 a.m. on the first business day following the observed holiday;

(d) From noon on the Wednesday preceding Thanksgiving Day until one-half hour before sunrise on Monday following Thanksgiving Day, except operations conducted in accordance with section (1) of this rule may recommence at 12:01 a.m. on the Monday following Thanksgiving Day; or

(e) During daylight hours Saturday after noon and Sundays from Memorial Day to Labor Day.

(3) In addition to the restrictions in section (2) of this rule, if width exceeds 12 feet:

(a) Movement is prohibited in the urban areas of Portland, Salem, Eugene, Grants Pass and Medford, on non-interstate highways, between the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.; and

(b) Movement on Interstate 5 between the Oregon-Washington border and its junction with OR 217, and Interstate 5 between Exit #24 and #33 near Medford is prohibited between the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.

(4) In addition to the restrictions in sections (1), (2) and (3) of this rule, if width exceeds 14 feet:

(a) Movement is prohibited in urban areas of Portland, Salem, Eugene, Grants Pass and Medford, on all highways, between the hours of 7 a.m. to 9 a.m., 11 a.m. to 1 p.m. and 4 p.m. to 6 p.m.;

(b) Movement is prohibited outside the Portland urban area between the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday on the following highways:

(A) Interstate 5, between milepost 278 and the Oregon-Washington border;

(B) Interstate 84, between milepost 15 and the junction of Interstate 5 at mile post 0;

(C) Interstate 205; and

(D) US Highway 26 (Sunset Highway), between milepost 64 east to Portland.

(5) The Chief Engineer may impose or alter time of travel restrictions. These may be necessary to prevent conflict with highway construction or repair projects, or to cope with local or seasonal traffic conditions.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 11-1992, f. & cert. ef. 9-16-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0023

Weather Restrictions

(1) Movement of a vehicle or combination of vehicles exceeding eight feet six inches in width is prohibited:

(a) When road surfaces are hazardous due to ice, snow or frost;

(b) When visibility is less than 500 feet due to snow, mist, rain, dust, smoke, fog or other atmospheric conditions; or

(c) When wind or other conditions exist which could cause the vehicle or vehicles to swerve, to whip, to sway, or fail to follow substantially in the path of the towing vehicle.

(2) To assist the permittee in complying with restrictions caused by weather conditions, the Department of Transportation may place signs in areas where winter weather or wind conditions may cause travel to be hazardous. In addition to the prohibitions found in section (1) of the rule, when restrictions are displayed, movement of overwidth vehicles or combinations of vehicles is prohibited.

Stat. Auth.: ORS 184.616, 814.619 & ORS 818.200

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: TO 3-2000, f. & cert. ef. 2-11-00

734-082-0025

Height

Permits are required for all vehicles or combinations of vehicles, including any load, which exceeds 14 feet in height. Unless specifically stated on the permit as authorized by ORS Chapter 818 or rule, overheight permits will not be valid for loads or items placed or stacked one on top of another or overlapping.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00

734-082-0030

Overhang

(1) Permits are required for excessive front and/or rear overhang as follows:

(a) Front overhang: When any load, including crane booms, log grapples, conveyors, cement chutes, loading buckets, etc., extends more than four feet beyond the front bumper or foremost part of the vehicle or combination of vehicles;

(b) Rear overhang — Solo vehicle: Single trip or continuous trip — If the rear overhang exceeds 3/4 of the wheelbase of the vehicle. A permit may be issued allowing a maximum rear overhang equal to the wheelbase of the vehicle provided front overhang does not exceed four feet;

(c) Rear overhang — Combination of vehicles:

(A) If rear overhang exceeds 1/3 of the wheelbase of the combination of vehicles, a single trip permit may be issued for a rear overhang not to exceed 1/2 of the wheelbase of the combination of vehicles, except that;

(B) Continuous trip permits for truck-tractor with semitrailer combinations may be issued for rear overhang not to exceed 1/2 of the wheelbase of the combination of vehicles for designated routes when a permit is issued for load length not in excess of 70 feet and overall length is not in excess of 80 feet, and when movement is on routes approved for these permits by the Chief Engineer.

(2) Wheelbase measurement will be from the center of the first axle to the center of the last axle of the vehicle or combination of vehicles.

(3) Rear overhang will be measured from the center of the last axle of the vehicle or combination of vehicles to the end of the load.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0035

Pilot Vehicle(s)

(1) Pilot vehicles may be needed to insure the safety of the traveling public when vehicle and load movements involve excessive width, height, length or projections to the front or rear of vehicles or combinations of vehicles. The configuration of such pilot vehicle(s) shall be a passenger car, pick-up, truck, or truck-tractor of legal size and weight. A pilot vehicle may not tow another vehicle.

(2) Pilot vehicles escorting oversize loads or vehicles are required to have the following:

(a) Warning signs mounted above the roofline of the vehicle. This sign shall bear the legend "OVERSIZE LOAD." The sign shall be at least five feet wide by ten inches high; have black letters eight inches high with one-inch brush stroke in accordance with Federal Highway Administration series B, on highway yellow background. Signs made of materials that do not provide a continuous background are not allowed. The sign shall be displayed only during the course of the oversize movement, and shall be removed or retracted at all other times. The sign must be kept clean, legible, and mounted adequately to afford full view at all times, when in use, to the front or rear depending upon location of pilot vehicle or relative to the oversize unit;

(b) Warning lights are required in addition to those lights that may otherwise be required by law. The warning lights shall be displayed only during the course of the oversize movement, and at all other times the requirements found in ORS 816.350(7) shall apply. Strobe lights are allowed. These lights shall be mounted above the roof of the cab, be clearly visible from a distance of 500 feet, have a minimum of 30 flashes per minute and be either:

(A) Two flashing amber lights as widely spaced laterally as is practical; or

(B) Revolving type amber light(s); or

(C) Amber type strobe light(s) with 360 degree visibility.

(c) Two-way radio communications between the oversize vehicle and the pilot vehicle(s) must be maintained at all times;

(d) Two 18-inch-square red flags mounted on three-foot length staffs shall be carried by each pilot vehicle. The pilot vehicle operator shall use the flags to warn oncoming or overtaking traffic when the oversize unit is stopped and/or obstructing traffic; and

(e) Eight safety flares or reflectors. Safety flares may not be used when the movement involves hazardous materials.

(3) The number of pilot vehicles required for certain movements is shown on permit Attachment 82-A, which is issued with permits requiring pilot vehicles. The Chief Engineer is authorized to alter the number of pilot vehicles from those specified in permit Attachment 82-A depending upon local conditions, seasonal traffic, construction projects, or other considerations. The permit will reflect altered requirements.

(4) Permit Attachment 82-A is available from the Motor Carrier Transportation Division, Over-Dimensional Permit Unit.

(5) The highway classification groups referred to in permit Attachment 82-A are established by and maintained by the Chief Engineer.

(6) Positioning of pilot vehicles — Unless specified otherwise, the pilot vehicle(s) shall be positioned ahead of (when one is required) or to the front and rear of (when two or more are required) the oversize unit at a distance of 300 feet to 500 feet from the unit. In areas where traffic congestion is encountered, where traffic is controlled by signals, or where other conditions may require, the spacing shall be reduced as may be required to properly safeguard the traveling public.

(7) When for any cause the oversize unit is stopped and occupies or encroaches onto the highway's travel lane, the pilot vehicle(s)

shall be positioned to warn and safeguard other traffic approaching from any direction from which visibility or sight distance may be limited.

(8) Duties of pilot vehicle operations:

(a) Warn approaching and/or overtaking traffic of the unit's presence on the highway to provide a maximum of protection and safety for the traveling public; and

(b) When encountering bridges, structures, tunnels, or other locations where clearances may be limited to the extent that normal two-way traffic cannot be maintained, the pilot vehicle operator shall signal by hand or radio to the towing vehicle driver when the oversize unit can proceed without conflict to approaching traffic. As the oversize unit then proceeds through such areas of impaired clearance, the pilot vehicle operator shall act as flagger to warn approaching traffic.

(9) Pilot vehicles are considered to be under the direct control and supervision of the operator of the vehicle to which the permit is issued.

(10) Specifically identified locations may require additional precautions. Permits may specify locations that require certified flagging to be conducted. The flagging shall be conducted in accordance with the standards in the Manual on Uniform Traffic Control Devices as adopted in OAR 734-020-0005.

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

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1991(Temp), f. & cert. ef. 8-23-91; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0036

Warning Lights for Motor Vehicles Transporting Overwidth Loads

(1) Except as provided in section (3) of this rule and in addition to any other lights required by law, an overwidth motor vehicle or a motor vehicle transporting an overwidth load shall be equipped with warning lights when:

(a) Width exceeds 10 feet and the motor vehicle is operating on a two-lane highway; or

(b) Width exceeds 12 feet and the motor vehicle is operating on a four-lane highway.

(2) The warning lights shall be mounted on the towing vehicle above the roof of the cab, be clearly visible from 500 feet, have a minimum of 30 flashes per minute and be either:

(a) Two flashing type amber lights as widely spaced laterally as practical; or

(b) Revolving type amber light(s); or

(c) Amber type strobe light(s) with 360 degree visibility.

(3) An overwidth motor vehicle or a motor vehicle transporting an overwidth load is exempt from the warning light requirements when operating with a minimum of two pilot vehicles on all highways.

(4) End load lights described in ORS 816.290 are required when visibility is less than 500 feet due to darkness, snow, mist, rain, dust, smoke, fog or other atmospheric conditions, and when a load extends beyond the rear of the load carrying part of the vehicle four feet or more.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 818.200 & ORS 818.220

Hist.: HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0037

Warning Signs and Flags Required

(1) Vehicles transporting over-length or over-width loads are required to display to the front and rear standard signs bearing the words "OVERSIZE LOAD":

(a) Signs shall be seven feet wide by 18 inches high with black letters 10 inches high with 1-5/8 inch brush stroke in accordance with Federal Highway Administration series C on highway yellow background;

(b) The highway yellow background of the sign shall be made of reflectorized material when operating between one half hour after sunset and one half hour before sunrise;

(c) Signs must be kept clean, legible and mounted horizontally with adequate support to provide full visibility at all times when in use;

(d) Signs may have a border with not more than 1-5/8 inch brush stroke around the edge of the sign;

(e) Signs shall not cover or interfere with the visibility of the vehicle's registration plates. To meet this requirement, plates may be mounted to cover a portion of the sign's background, as long as the sign's legend remains readable; and

(f) All such signs shall be removed or retracted when not required.

(2) Warning signs for vehicles transporting loads which are overwidth and under 80 feet in overall length may bear the words "WIDE LOAD" provided the sign meets the standards described in section (1) of this rule.

(3) Warning signs for vehicles transporting loads which are not over eight feet six inches wide may bear the words "LONG LOAD" when the vehicle and overhang are over 80 feet in overall length provided the sign meets the standards described in section (1) of this rule.

(4) The outermost extremities of any overwidth load shall be marked during daylight hours with red flags not less than 12 inches square. Flags must be kept clean and must be clearly visible to the front and rear. The attachment device shall not extend beyond the widest extremity by more than three inches on either side.

(5) When a load extends beyond the rear of the load carrying part of the vehicle four feet or more, the outermost extremity of the load shall be visibly marked as described in ORS 815.275. When a red flag or cloth is used, it must be kept clean and must be clearly visible. The attachment device shall not extend beyond the rear of the load more than three inches.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 815.275, 816.290, 818.220 & 818.225

Hist.: HWY 11-1992, f. & cert. ef. 9-16-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0039

Self-Propelled Fixed-Load Vehicles

(1) Self propelled fixed load vehicles may be authorized for continuous trip permits provided that the width does not exceed 14 feet, the height does not exceed 14 feet, the weight does not exceed 98,000 pounds and does not exceed the weights in Permit Weight Table 4, and:

(a) Vehicle overall length, which may include an auxiliary axle, does not exceed 55 feet; and

(b) When towing a boom dolly, pickup truck, trailer or passenger car, the overall combination length does not exceed 75 feet; and

(c) A pickup truck, trailer or passenger car towed under this rule shall not exceed the weight allowed under ORS 818.010 and shall not exceed 20 feet in length.

(2) Movement of self-propelled fixed load vehicles or combinations that do not meet the conditions in section (1) of this rule may require a single trip permit.

Stat. Auth.: ORS 184.616 & ORS 814.619

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0040

Combination of Vehicles

(1) The following vehicles or combinations of vehicles may be authorized for continuous trip permits over authorized routes provided the width does not exceed 14 feet, the height does not exceed 14 feet, and the overall length does not exceed that stated below:

(a) A solo vehicle shall not exceed 40 feet and vehicle inclusive of load shall not exceed 50 feet in overall length;

(b) Truck-tractor and semitrailer combinations, which may include an auxiliary axle, shall not exceed the length limits as shown on the reverse of Group Map 1 or Route Map 7, whichever is greater, and the semitrailer shall not exceed 53 feet in length including the auxiliary axle. An auxiliary axle attached to the rear of a trailer shall be included in the measurement of the trailer unless the combination measurement exceeds 53 feet. Group Map 1 and Route Map 7, both dated November 2001, available from the Over-Dimensional Permit Unit, are by reference made a part of this rule;

(c) Motor truck and trailer shall not exceed 75 feet in overall length;

(d) Truck-tractor with semitrailer and trailer combinations shall not exceed the length limits shown on the reverse of Group Map 1 or Route Map 7, whichever is greater;

(e) Passenger or light vehicles towing any trailer shall not exceed 70 feet in overall length;

(f) An unladen combination of vehicles used to transport non-divisible loads may consist of the truck-tractor, one jeep axle(s), one semitrailer, one booster axle(s) and removable deck section(s). Semitrailer length shall not exceed 62 feet. Overall length shall not exceed 105 feet. Unladen movement is authorized with fewer vehicles, or with the jeep axle(s) and/or booster axle(s) loaded on the semitrailer; and

(g) A combination consisting of a truck-tractor towing manufactured home chassis, which may include axles and tires attached to each chassis hauled, may operate on a continuous trip permit under the following conditions:

(A) Chassis length inclusive of tongue shall not exceed 75 feet;

(B) The chassis shall not be loaded end to end but may be staggered lengthwise for transport;

(C) Overhang shall not extend more than five feet off the rear of the chassis transporting the load;

(D) Overall length of the combination shall not exceed 90 feet; and

(E) The chassis transporting the load shall be equipped with brakes and lights that meet the requirements of CFR 49 Part 393.

(2) When the combination of vehicles includes jeep axles, or other vehicles of a size or weight not authorized by section (1) of this rule, movement shall be by single trip permit only.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1991(Temp), f. & cert. ef. 8-23-91; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 11-1992, f. & cert. ef. 9-16-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0045

Stretch Trailer Provisions

(1) A trailer or semitrailer capable of increasing the distance from the kingpin or coupling device to the rearmost axle shall be designated a stretch trailer. This stretch trailer provision is accomplished by using a "telescoping" principle in the trailer. This does not include fixed or sliding extensions to either end of the trailer or semitrailer or semitrailers with removable deck sections.

(2) Permits may be issued for stretch trailers provided that the use of such stretch trailer provisions meets one of the following:

(a) The use of such stretch trailer provisions is needed for a permittable load that may otherwise be damaged by allowing it to overhang the trailer or semitrailer, or by sagging due to insufficient support; or

(b) The stretch trailer is used to reduce the height of a permittable load.

(3) Requests for moves using stretch trailers shall be on an individual basis, and permits will be issued for a single trip only. When not operating under the terms of a permit issued under this rule the stretch trailer must be reduced to legal dimensions.

(4) All features of the stretch trailer and/or load not otherwise authorized by law, shall be fully described in the permit. This includes the laden dimensions of the trailer and combination of vehicles, the nature of the load (trailer used to reduce height) and shall also include other features of the trailer (side-stretch, etc.).

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98

734-082-0050

Load Length

(1) Variance permits are required for non-divisible loads that exceed legal length specified in ORS Chapter 818.

(2) Overlength permits will not be valid if overlength is caused by multiple items placed end to end, or overlapping unless specifically stated on the permit as authorized by statute or rule.

(3) Items joined (by spot weld, tack weld, bolting, strapping, etc.) to facilitate transport, shall be considered to be divisible loads and not eligible for overlength permits.

(4) Continuous trip permits for truck-tractor with semitrailer combinations may be issued for load length not in excess of 70 feet and overall length not in excess of 80 feet.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 818.200

Stats. Implemented: ORS 818.210, ORS 818.220 & ORS 818.225

Hist.: TO 3-2000, f. & cert. ef. 2-11-00

734-082-0051

Commodities Authorized by the Permit

(1) Authorized commodities may be transported on vehicles up to eight feet six inches in width and on trailers up to 53 feet in length and with weights authorized under ORS 818.010. Other items may be transported in addition to the commodity authorized by the permit provided:

(a) Items are not more than eight feet six inches in width when items are stacked side by side or overlapping, or more than 14 feet in height when items are stacked one on the other. Loads consisting of pipe and culverts where smaller pipe or culverts are contained within the larger pipe or culvert may be authorized greater dimensions; and

(b) The authorized weight does not exceed that allowed under ORS 818.010, unless the single trip permit authorizes Permit Weight Table 2.

(2) A permit issued under these Division 82 rules shall not be combined with a permit issued under another division of the department's rules unless specifically authorized on the permit.

(3) The following apply to authorized commodities and related items transported on vehicles exceeding eight feet six inches in width, or with trailers exceeding 53 feet in length, and with weights authorized under ORS 818.010:

(a) As used in ORS 818.210, the term "items related to" shall mean items authorized by a permit and listed on the bill of lading, if:

(A) They are the same manufactured commodity as the permitted item; or

(B) They are accessory parts of the permitted item.

(b) The use of an oversize vehicle or combination of vehicles must be warranted by the size of the permitted item;

(c) Related item(s) may be transported on the upper deck of a drop deck trailer. Item(s) transported on the upper deck shall not exceed 14 feet in height or the loaded height of the load on the lower deck, whichever is greater;

(d) Authorized commodities may not be more than eight feet six inches in width when items are stacked side by side or overlapping, or be more than 14 feet in height when items are stacked one on the other. Loads consisting of pipe and culverts where smaller pipe or culverts are contained within the larger pipe or culvert may be authorized greater dimensions;

(e) Related items may not extend past the rear of the trailer or semitrailer if the trailer exceeds 53 feet. Smaller pipe and culverts may extend beyond the rear of the trailer or semitrailer when contained within the larger permitted pipe or culvert but the smaller pipe or culvert may not extend beyond the larger pipe or culvert; and

(f) Except as provided in OAR 734-082-0053, multiple items may not be transported on an oversize vehicle or combination of vehicles without the permitted item.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 17-1990, f. & cert. ef. 12-28-90; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02

734-082-0053

Primary and Secondary Haul

(1) A combination of vehicles that includes a semitrailer exceeding eight feet six inches in width or exceeding 53 feet in length shall not transport multiple items except as authorized in OAR 734-082-0051 or this rule. This section authorizes multiple items transported on a semitrailer up to 10 feet in width or with trailers up to 62 feet in length and with weights authorized under ORS 818.010.

(2) A single trip permit may be issued authorizing item(s) to be transported as a secondary haul movement provided:

(a) A single trip permit authorizing the primary haul is issued and the single trip permit for the secondary haul is applied for listing the commodities and their origination point and is issued at the same time;

(b) The origination point of the secondary haul load shall:

(A) Be on the route of the primary haul; or

(B) Not be greater than 25 road miles from the origin/delivery point of the primary haul;

(c) Items stacked side by side or overlapping shall not be more than eight feet six inches in width;

(d) Items stacked one on the other or transported on the upper deck(s) of a drop deck trailer shall not be more than 14 feet in height;

(e) Items loaded end to end on a semitrailer shall not exceed 53 feet in length; and

(f) The authorized weight for the secondary haul shall not exceed that allowed under ORS 818.010 unless the single trip permit authorizes Permit Weight Table 2.

(3) The single trip permits issued for the primary and secondary haul shall display the number of the permit issued for the accompanying primary or secondary haul in the Special Provisions section of the permit.

(4) The single trip permits authorizing the primary haul and the secondary haul and the bill of lading of each haul shall be carried in the vehicle and made available on request by enforcement personnel or other ODOT personnel.

(5) The single trip permits authorizing the primary haul and secondary haul shall run concurrently and shall not exceed a period of 10 days.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & ORS 810.060

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: TO 3-2000, f. & cert. ef. 2-11-00

734-082-0055

Approved Routes for Authorized Combinations of Vehicles

(1) The Chief Engineer, or his designee, may approve, limit or delete by written order the state highways or sections of state highways approved for use by vehicles authorized by OAR chapter 734, division 82.

(2) The Chief Engineer may also specify the type(s) of vehicle combinations authorized on approved routes.

(3) The list of approved highways and types of vehicle combinations authorized are maintained by the Chief Engineer.

(4) Trial test runs may be required to revise routes or approved vehicle combinations.

(5) Before adding or deleting highways or sections of highways, the Chief Engineer shall investigate the condition of the highway, and may consider road surface width, condition, safe passing opportunities, bridges, structures, accessibility, general sight distance, and other conditions which he deems appropriate along such highways.

Stat. Auth.: ORS 183.335(5) & ORS 818.200

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 2-1992, f. & cert. ef. 2-18-92

734-082-0060

Chief Engineer's Authority

Some extraordinary movements may exceed the limits established by these rules. The Chief Engineer may vary from these rules and issue single trip permits if the movement would be in the public interest. Any such deviations may be considered on an individual basis and not be construed as a change in policy. The Chief Engineer will consider potential damage to the highway and the potential hazard to the motoring public by allowing such loads.

Stat. Auth.: ORS 183.335(5), 810 & ORS 818.200

Stats. Implemented: ORS 818.220 & ORS 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92

734-082-0070

General Permit Provisions

(1) Posted Load Limits: Notwithstanding the weights or dimensions allowed under a permit, the posting of any highway or structure to reduce weights or dimensions shall modify the limits allowed under the permit.

(2) Impaired Clearance: Full responsibility for determining adequate clearance, both vertical and horizontal is hereby imposed upon the permittee and the driver of equipment having a width and/or height in excess of the legal limit. When the vertical or horizontal clearance of any bridge or structure is impaired to the extent that full two-way traffic cannot be maintained, the permittee shall provide a pilot vehicle for the purpose of preventing approaching vehicles from entering the bridge or structure while it is impaired by the movement covered by this permit.

(3) Spacing Interval: Two or more vehicles required to display warning signs shall maintain a distance of one-half mile between combinations traveling in the same direction, except when overtaking or passing or in areas where increased traffic congestion is encountered, where traffic is controlled by signals, or where other conditions may so require. All slow-moving lanes and turn-outs must be used to allow following traffic to pass.

(4) Bond — Highway Damage: Permittee shall be held responsible and liable for any and all damage to, or destruction of any highway or any highway structure occasioned by the movement over said highways, and hereby agrees to reimburse the Department of Transportation (Department) for the cost or expense of repairing or restoring any highway structure damaged, or destroyed; such reimbursement to be made by the permittee within ten days after being billed for the same by the Department. When requested to do so, permittee shall furnish the State either a certified check or a surety bond, in any amount to be specified by the Department to guarantee the payment of claim for damages which may result from movement of an unusually large or heavy nature.

(5) Insurance: Permittee shall also be held responsible and liable for any and all injury to persons or damage to property resulting from the movement on said highways, and shall indemnify and hold harmless the State of Oregon, and Oregon Transportation Commission, its members, officers, and employees, jointly and severally, from liability in the event that such injury or damage shall occur. In this connection, the granting authority may require the permittee to furnish to the Department evidence of satisfactory public liability and property damage insurance, in amounts as may be required by the Commission, and evidence of satisfactory indemnity insurance indemnifying the State of Oregon and its Transportation Commission, its members, officers, and employees, jointly or severally against liability in the event of any injury or accident occurring by reason of said permittee's operations on a state highway. This permit shall automatically terminate, and be of no force and effect in the event that any insurance filed under this provision is canceled or is allowed to lapse.

(6) County Roads and City Streets: This permit does not authorize operations over county roads or city streets unless specifically noted. To operate over a county road a permit must be obtained from the county authority having jurisdiction over the road; likewise, to operate over a city street other than a state highway route, a permit must be obtained from the proper city authority.

(7) Cancellation: This permit may be canceled at any time by the granting authority upon proof satisfactory to it that the permittee has violated any of the terms of the permit, or that the permit was obtained through misrepresentation in the application therefor, or when in the judgment of the granting authority the public interest requires cancellation (ORS 818.220).