

Department of Transportation
Administrative Rules Annual Report
HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2022 through December 31, 2022

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	6
Amended	45
Repealed	14

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Administrative Rules Annual Report

HB 4106 (2016 Session)

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Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	27
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Administrative Rules Annual Report

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Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	1
Amended	4
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Chapter 735 Department of Transportation, Driver and Motor Vehicle Services Division

Administrative Rules Annual Report

HB 4106 (2016 Session)

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Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	5
Amended	28
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	1
Amended	4
Suspended	0

DMV 14-2022

Filed: 10/17/2022 2:08 PM

735-063-0290

Amend

Statement of Need

OAR 735-063-0290 requires commercial driver license (CDL) holders with a hazardous materials endorsement (HME) to pass a security threat assessment (STA) from the Transportation Security Administration (TSA) at intervals of not more than five years from the date of the person's most recent TSA STA. An individual seeking renewal of a HME must initiate an STA at least 60 days before expiration of their current HME. The process of initiating an STA requires the individual to submit information to the TSA enrollment center at least 60 days before the expiration of the HME. When a CDL HME holder does not complete the STA in accordance with OAR 735-063-0290 and federal regulation, DMV initiates cancellation of the driver's CDL.

Even though all shipments do not include hazardous materials, many employers want to have commercial motor vehicle drivers with HMEs available as a matter of efficiency to ensure any driver is authorized to carry any shipment. According to TSA, enrollments for HMEs have exceeded historical demands, increasing from approximately 15,000 per month in 2021 to 20,000 per month in 2022. This has increased processing times and TSA is currently unable to complete the adjudication of potential disqualifying factors and make an eligibility determination within the 60 day timeframe.

On September 15, 2022, TSA granted a temporary exemption from requirements regarding the expiration of TSA STAs for HME holders. For the duration of the exemption, states may extend the expiration date up to 180 days for an HME that expires between July 1, 2022 and December 27, 2022. TSA determined it is in the public interest to grant the exemption to ensure HME's do not expire due to the backlog, further exacerbating current difficulties with the transfer and movement of cargo nationwide and at ports.

DMV believes temporarily amending OAR 735-063-0290 to allow DMV to act in accordance with the TSA temporary exemption will alleviate an undue burden on CDL HME holders and their employers.

Justification

TSA is unable to complete STAs within a 60 day timeframe, which could result in cancellation for CDL drivers with a HME. DMV's failure to act promptly will result in serious prejudice to the public interest and qualified CDL HME drivers.

The United States is currently experiencing a shortage of commercial driver license (CDL) drivers. Taking qualified CDL drivers off the road because of delays in TSA's processing time would further exacerbate the supply chain issues Oregon is currently facing.

CDL drivers with an HME also deliver cargo not requiring a HME. Cancelling their CDL privileges due to an expired HME, therefore, may negatively impact all cargo transport. The public may not be able to receive necessary medical supplies, fuel to get to work, fertilizer and food products, or other goods.

CDL drivers with an HME will be impacted because they will not be able to earn income. The resulting impact would hurt small businesses and large businesses in addition to individual CDL holders.

According to the TSA exemption, TSA has determined that there is little risk to transportation security associated with the temporary exemption. Additionally, CDL HME holders are still otherwise medically qualified to operate a commercial motor vehicle and do not need to pass any additional DMV tests to continue to do so.

DMV 19-2022	Filed: 12/20/2022 7:04 PM
735-028-0080	Amend
735-028-0110	Amend
735-028-0125	Amend
735-028-0160	Adopt

Statement of Need

DMV is experiencing ongoing supply issues related to the availability of the carbon copy (multi-copy) paper needed to produce DMV's Secure Power of Attorney form (DMV Form 402) and Secure Odometer Disclosure/Reassignment form (DMV Form 403). To ensure continued availability of these forms, DMV is amending its rule to permit the use of a more sustainable single-copy format that retains required security features, while continuing to permit the use of forms with the multi-copy format.

DMV must amend its rules to provide the new form number and to authorize secure forms agents to purchase and sell Secure Power of Attorney and Secure Odometer Disclosure/Reassignment forms that meet or exceed federal requirements from a person approved by DMV when DMV's vendor is unable to provide secure forms in a timeframe sufficient to meet operational needs. The new rule also states that DMV will not reimburse the secure forms agent for any unused secure forms purchased from a person that is not DMV's vendor.

Justification

DMV's failure to act promptly will result in serious prejudice to the public interest. DMV's vendor has distributed the last batch of forms the vendor had available. DMV anticipates this supply will be exhausted within a month and then there will not be any more forms available to dealerships, credit unions, banks and others as required by state and federal law to complete an Oregon vehicle transaction during a transfer of ownership. This temporary rule will enable secure forms agents and DMV to initiate urgent procurement and approval processes to obtain alternative forms and prevent or minimize this impending secure form shortfall.

DMV's failure to adopt and amend these rules will prevent certain vehicle sales transactions from occurring. Prevention of vehicle sales may disrupt the ability of some Oregonians to acquire reliable transportation. It would also hinder vehicle dealership sales to Oregon residents, thereby negatively impacting sales employees who work on commission in addition to the dealership themselves. Secure forms agents will also lose revenue because they will be selling fewer

forms.

Adopting and amending these rules will alleviate the potential consequences because secure forms agents will be able to obtain forms from either DMV's vendor or another person when DMV's vendor is unable to supply forms. The alternative form option provided in this temporary rulemaking will prevent or mitigate a transaction and business disruption for dealerships, credit unions, banks and others who need the forms to transfer ownership and apply for Oregon vehicle titles.

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Adopted	0
Amended	0
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Chapter 740 Department of Transportation, Motor Carrier Transportation Division

Administrative Rules Annual Report

HB 4106 (2016 Session)

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Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	10
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

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Adopted	0
Amended	0
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0