



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

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DATE: April 1, 2009

TO: Licensed Motor Vehicle Fuel Dealers, Use Fuel Sellers,
and Use Fuel Users

FROM: Oregon Department of Transportation, Fuels Tax Group

SUBJECT: Notice of Potential Economic Effect

File Code:

The ODOT Fuels Tax Group intends to:

Adopt Oregon Administrative Rules (OAR) 735-170-0105, 735-170-0115, 735-174-0035, 735-174-0045, 735-176-0017, 735-176-0019, 735-176-0021, 735-176-0022, 735-176-0045;

Amend OAR 735-170-0000, 735-170-0010, 735-170-0020, 735-170-0040, 735-170-0045, 735-170-0050, 735-170-0090, 735-170-0100, 735-170-0110, 735-170-0120, 735-170-0130, 735-170-0140, 735-174-0000, 735-174-0010, 735-174-0020, 735-174-0030, 735-174-0040, 735-176-0000, 735-176-0010, 735-176-0017, 735-176-0020, 735-176-0030, 735-176-0040; and

Repeal OAR 735-170-0030, 735-170-0060, 735-170-0070, 735-170-0080, 735-176-0015, 735-176-0018

These Oregon Administrative Rules may have an economic effect on licensees, refund claimants, local government entities and business, including small businesses.

The Department will adopt and amend its rules that support Chapter 44, Oregon Laws 2008, and applicable statutes in ORS Chapter 319 and repeal rules that are no longer supported by statute.

Chapter 44, Oregon Laws **2008**. Senate Bill 1079, passed during the 2008 legislative session, amended Oregon Revised Statutes (ORS) §§ 319.520 and 319.665. As a result Division 176

- rules are adopted to redefine the term “cardlock” to parallel industry practice;
- rules are amended to clarify invoice requirements per statute update;
- rules are adopted to disallow the 4% credit when the Department determines the Use Fuel Seller has failed to file.

Other changes are proposed to ensure uniform reporting and record keeping requirements for all fuel transactions in the state of Oregon, and to correct and clarify current rule language for Divisions 170, 174, and 176. Specifically:

- Rules are amended to clarify tax reporting and recordkeeping requirements;
- Rules are amended to clarify tax report due dates per statute.
- Rules are adopted for determining whether reports are received timely. Specifically, legible United State Postal Service postmark or cancellation stamp dates or other third party evidence (certified mail receipt, delivery service, etc.) may be used to determine whether reports are timely. Postage meter machine dates are not valid because they can be changed by the user.

Refund rules and requirements have been amended or adopted as set forth below:

- Rules are amended to clarify consumption record requirements for fuel withdrawn from bulk storage;
- Rules are amended to clarify acceptable documentation for refund claims;
- Rules are adopted to allow agents and executors to file on behalf of refund claimants;
- Rules are adopted to clarify record requirements for motor vehicle fuel used in commercial fishing operations or in aircraft.

The Fuels Tax Group has not incorporated exceptions to the rules as these are reviewed and approved or denied as they may occur. Decisions on exceptions will be provided to the requestor in writing.

Due to the volume of material, the Fuels Tax Group has posted the draft rules online rather than mailing a copy. They can be found on www.oregon.gov/odot/cs/ftg. Please contact the Fuels Tax Group if you need a copy of the draft rules mailed to you.

Please forward this message to your customers, who may also be impacted by these rule changes. If you believe these proposed rules will have an economic effect on you or your customers, please send your comments by April 21, 2009 to:

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