

735-063-0070

Oregon Waiver of Physical Disqualification

(1) Possession of a Waiver of Physical Disqualification issued by DMV to the holder of a commercial driver license who only operates commercial motor vehicles in intrastate commerce is subject to the procedures, conditions and limitations set forth in this rule.

(2) Definitions:

(a) "Accident/conviction records" are records used to establish when a medical waiver issued by DMV may be denied or suspended. These include, but are not limited to DMV records, police reports, crash reports or other reports from motor carriers.

(b) "Conditions requiring waiver" are as provided in Title 49, CFR Sections 391.41 through 391.49;

(c) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation;

(d) "Waiver Guidelines" are those criteria maintained by, and available from, DMV as provided for by a licensed health care professional under contract with the Department of Transportation, the Medical Determination Officer or the State Health Officer.

(3) Waiver conditions and procedures include:

(a) When an intrastate driver of a commercial motor vehicle (CMV) does not qualify for a *Skill Performance Evaluation Certificate* or exemption pursuant to Title 49, CFR Sections 391.41 through 391.49 or Title 49 CFR Sections 381.300 to 381.330, the driver may make application to DMV for an Oregon Waiver of Physical Disqualification;

(b) Applications for waiver shall be accompanied by a completed waiver application form and other information as required by DMV, including a current USDOT physical examination form completed by a licensed health care professional;

(c) All waivers and requests for waivers shall be subject to review by a licensed health care professional under contract with the Department of Transportation, the Medical Determination Officer or the State Health Officer; and

(d) DMV may make an inquiry, review, or investigation of an applicant or current waiver holder's driving record, both commercial and noncommercial, at any time and it may use its findings as a basis for denial of a waiver or for suspension or permanent revocation of an existing waiver as specified in OAR 735-063-0075. Subject information shall include but not be limited to:

(A) Accident/conviction record;

(B) Crash information; and

(C) Any other information received regarding driving activities.

(e) If an inquiry, review or investigation of an applicant for, or current holder of, a driver's Waiver of Physical Disqualification is conducted under subsection (d) of this section and information is obtained that may be used as a basis for denial of waiver or for suspension or permanent revocation of an existing waiver, DMV may take action as follows:

(A) If no penalty order or cease and desist order has been entered against the applicant or current holder within the preceding five years for violations or other actions taken under subsection (d) of this section:

(i) When the record or other information being acted upon relates to non-commercial driving activities, DMV may deny or suspend an applicant's or holder's Waiver of Physical Disqualification for up to 180 days; and

(ii) When the record or other information being acted upon relates to commercial driving activities, denial or suspension of an applicant's or holder's Waiver of Physical Disqualification for up to one year.

(B) If a penalty order or cease and desist order has been entered against the applicant or current holder within the preceding five years for violations or other actions taken under subsection (d) of this section:

(i) When the record or other information being acted upon relates to non-commercial driving activities, DMV may deny or suspend a Waiver of Physical Disqualification for up to one year or permanently revoke or deny the Waiver of Physical Disqualification, as warranted by the circumstances of a particular case.

(ii) When the record or other information being acted upon relates to commercial driving activities, DMV may deny or suspend a Waiver of Physical Disqualification for up to two years or permanently deny or revoke the Waiver of Physical Disqualification, as warranted by the circumstances of a particular case.

(C) If a driver has been subject to action specified in subsection (d) of this section in the preceding 12 months:

(i) When the record or other information being acted upon relates to non-commercial driving activities, DMV may deny or suspend a Waiver of Physical Disqualification for up to five years or permanently deny or revoke the waiver as warranted by the circumstances of a particular case; and

(ii) When the record or other information being acted upon relates to commercial driving activities, DMV may permanently deny or revoke the Waiver of Physical Disqualification.

(4) Any driver issued a waiver shall:

(a) Notify DMV of any change in the driver's physical condition pertaining to the need for a waiver or any other condition which may require a waiver or waiver modification;

(b) Notify DMV of all crashes, arrests or convictions involving the use of a motor vehicle within 30 days of the crash or within 10 days of the arrest or conviction;

(c) Notify DMV of any suspension, revocation or withdrawal of driving privileges in a state other than Oregon;

(d) Notify DMV within 10 days of changing employers and provide the employer with a copy of the waiver;

(e) Carry a copy of the medical waiver and any listed waiver conditions at all times while operating a CMV and make the waiver and waiver conditions available to enforcement personnel upon request;

(f) Only operate a CMV in Oregon intrastate operations; and

(g) Comply with all of the waiver conditions.

(5) The waiver period shall not exceed the expiration date of the driver's medical certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: ORS 807.040, 807.150

735-063-0075

Suspension, Denial or Revocation of an Oregon Waiver of Physical Disqualification

(1) A holder of a Waiver of Physical Disqualification who violates any of the requirements set forth in OAR 735-063-0070(4), in addition to any other penalties authorized by law, shall be subject to suspension of the waiver for up to 180 days.

(2) DMV shall deny or revoke a Waiver of Physical Disqualification if DMV determines that applicant or holder does not qualify for the waiver.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: ORS 807.040, 807.150