

Text to be added in **bold**
Text to be deleted in [*italics*]

This rule is repealed in its entirety.

[735-062-0003

Military Exemption from Requirement to Have an Oregon License or Permit

ORS 807.020 exempts certain military drivers from the requirement to have an Oregon driver license or permit when the driver operates an official motor vehicle in the course of the person's duties in the Armed Forces and has an out-of-state or military license or permit. As used in ORS 807.020(2), an "official motor vehicle" includes any motor vehicle operated for military purposes.]

735-062-0190

Requirements for Issuance and Retention of a Hazardous Materials Endorsement

(1) To obtain, retain or renew a hazardous materials endorsement on an Oregon commercial driver license (CDL), a person must be qualified. To qualify for a hazardous materials endorsement a person must:

- (a) Qualify for commercial driving privileges or have a valid Oregon CDL;
- (b) Pass a hazardous materials endorsement knowledge test for an original endorsement or a renewal;
- (c) Pass a security threat assessment (security check) from the Transportation Security Administration (TSA) in accordance with 49 CFR Part 1572, including receipt by DMV of a notice from TSA which shows the person does not pose a security threat. A person must pass a TSA security check at the following times:

(A) [*Before DMV will issue*] **Within four years and nine months prior to the date DMV issues** an original hazardous materials endorsement;

(B) [*Between three and five years prior to the date the CDL with a hazardous materials endorsement expires*] **At intervals of not more than five years from the date of the person's most recent TSA security check; and**

[*(C) No more than one year prior to expiration of the CDL with a hazardous materials endorsement; and*]

[*(D)*] **(C)** Any other time required by DMV.

(d) [*Complete a TSA security check four to five years prior to the date the CDL with a hazardous materials endorsement expires.*] **Provide proof of U.S. citizenship, as described in OAR 735-062-0015(2), or permanent legal residence, as described in OAR 735-062-0015(3). A person unable to provide one of the documents listed in OAR 735-062-0015(2) or (3) is not qualified for a hazardous materials endorsement.**

(e) Pay all required fees, which include, but may not be limited to, any applicable issuance fee and a hazardous materials knowledge test fee.

[(2) To complete a TSA security check, a person must complete a security check application, submit fingerprints, provide proof of citizenship or lawful immigration status, and payment of fees as specified by TSA. To pass a TSA security check, DMV must receive a notice from TSA which shows the person does not pose a security threat.]

[(3) DMV may issue a CDL without a hazardous materials endorsement to a person waiting to receive the results of the security check from TSA. Upon receipt of a notice from TSA showing the person passed a security check, DMV will issue, at no charge, a replacement CDL with a hazardous materials endorsement. The person must surrender the CDL that was issued pending the security check. A person issued a CDL without a hazardous materials endorsement is not authorized to transport hazardous materials.]

[(4)] **(2)** A person is no longer qualified for a hazardous materials endorsement if:

(a) DMV receives a notice of threat assessment from TSA requiring immediate cancellation of the hazardous materials endorsement; *[or]*

(b) DMV receives notice from TSA indicating the person did not pass the security threat assessment; **or**

(c) The person fails to complete and pass a TSA security check as described in section (1) of this rule.

[(5)] **(3)** If DMV determines a person **is** no longer qualified for a hazardous materials endorsement, DMV will cancel the person's *[hazardous materials endorsement]* **CDL as set forth in OAR 735-070-0000**. Upon cancellation of *[the hazardous materials endorsement,]* **the CDL**, the person must immediately surrender to DMV the CDL showing the hazardous materials endorsement. **If the person otherwise qualifies and pays a replacement fee**, DMV will issue a driver license *[, at no charge,]* **or a CDL** without a hazardous materials endorsement *[if the person qualifies for driving privileges]*.

[(6) A person is no longer qualified for commercial driving privileges with a hazardous materials endorsement if when required, the person fails to complete and pass a TSA security check as described in section (2) of this rule. DMV will cancel the person's commercial driving privileges as set forth in OAR 735-070-0000.

(7) If the person does not surrender his or her CDL showing the hazardous materials endorsement within the time required on the notice of cancellation, DMV will cancel the person's commercial driver license pursuant to ORS 809.310(1) and 807.350.]

[(8)] **(4)** The person may request an administrative review on the cancellation of his or her *[hazardous materials endorsement]* **CDL**. The issues for the administrative review are limited to whether:

(a) When required, the person completed and passed a TSA security check as described in section [(2)] **(1)** of this rule; or

(b) DMV received a notice from TSA showing the person does not qualify for a hazardous materials endorsement; and

(c) Whether the person is the same person named on the notice.

[(9) When the results of the TSA security check are received, DMV will update the person's driving record to indicate the results of the security check and whether a hazardous materials endorsement was issued or denied].

*[(10)] **(5)** An applicant for an Oregon CDL with a hazardous materials endorsement who presents a valid CDL with a hazardous materials endorsement issued by another state must still qualify for an original hazardous materials endorsement as set forth in **section (1) of this rule**, including but not limited to a TSA security check. DMV will accept a TSA security clearance that has been conducted within one year of issuance of the Oregon CDL].*

*[(11)] **(6)** [When DMV cancels a CDL with a hazardous materials endorsement because the person fails to complete or pass a security check, if] **If** the [applicant] **person** passes a **TSA** security check within one year from the date [of] the **person's CDL with a hazardous materials endorsement was canceled** [cancellation] **under section (3) of this rule** and otherwise qualifies for the **CDL and** endorsement, DMV will reissue the CDL with a hazardous materials endorsement [at no charge] **after payment of a replacement fee**. If the cancellation has been in effect for more than one year, the person must reapply for the hazardous materials endorsement as an original endorsement and must take all required tests, pay all required fees and pass the required **TSA** security check.*

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.173

Stats. Implemented: ORS 807.170, 807.173, 807.350, 809.310, 49 USC sec. 5103a

735-070-0000

Driver License Cancellations -- Not Entitled to Driving Privileges

(1) DMV will, under the provisions of ORS 807.350 and 809.310(1), cancel a person's driving privileges if DMV determines the person is not entitled to or no longer qualified for a driver permit or driver license.

(2) A person is not entitled to a driver permit or driver license if the person does not meet the eligibility requirements of ORS 807.024, 807.040, 807.060, 807.062, 807.065, 807.066, [and] 807.070 **and 807.173**.

(3) A person is not entitled to a driver permit or driver license if the person's driving privileges are suspended or revoked in any jurisdiction.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 802.540, 807.040, 807.050, 807.060, 807.070, 807.120, 807.150, 807.173, 807.400 & 809.310

This rule is repealed in its entirety.

[735-070-0043

Definition of Valid Commercial Driver License

(1) As used in the definition of “holds a commercial driver license” in ORS 801.307 and ORS 153.090(7), the term “valid” means the commercial driver license was issued by DMV or another jurisdiction and is not expired, suspended, cancelled or revoked.

(2) This rule shall be applied retroactively to January 1, 2008.]

735-070-0170

Hearing Regarding Civil Penalty [Schedule] for Violation of an Out-of-Service Order or [Notice] Notification of Violation

[(1) The Driver and Motor Vehicle Services Division (DMV) of the Department of Transportation shall impose the civil penalty required by ORS 813.052, on the operation of the commercial motor vehicle in accordance with the following schedule:

(a) \$1100 upon DMV’s receipt of the first notice indicating the person has violated an out-of-service order or notice; and

(b) \$2750 upon DMV’s receipt of a notification that the person has violated a second or subsequent out-of-service order or notice.]

*[(2)] **When** [The person incurring the] **a** civil penalty **is imposed under Sec. 14, Ch. 395, Oregon Laws 2009, the person** has a right to a contested case hearing in accordance with ORS [183.090] **183.745**. However, the amount of the civil penalty is not an issue at the hearing, and the [hearing officer] **administrative law judge** presiding at the contested case hearing [shall] **may** not adjust the amount of the civil penalty.*

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: Sec. 14 Ch. 395 OL 2009