

OFFICE OF STATE FIRE MARSHAL

AGRICULTURAL FIREWORKS ADMINISTRATIVE RULES



OFFICE OF STATE FIRE MARSHAL

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**AGRICULTURAL
FIREWORKS IN OREGON
OREGON ADMINISTRATIVE RULES
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ADMINISTRATIVE RULES

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OREGON ADMINISTRATIVE RULES

AGRICULTURAL FIREWORKS

837-012-0305

Purpose and Scope

(1) These rules establish *agricultural permit, permit application* and other requirements for those *persons* permitted under ORS 480.122 and 480.124 to obtain *agricultural permits* to control birds and predatory animals that are injurious to crops.

(2) An *agricultural permit* allows the *permit holder* to engage only in those activities including the purchase, transportation, possession, storage and use of *agricultural fireworks* (1.4E) when those activities are otherwise in conformance with the requirements of ORS 480.122 and 480.124, these rules, and any other applicable state, federal, or local requirements.

(3) An *individual member of the general public* may not buy or use *agricultural fireworks* unless they have applied for and obtained an *agricultural fireworks permit* from the Office of State Fire Marshal pursuant to these rules. Violation of these rules may result in confiscation of the *fireworks*, and the assessment of penalties in accordance with ORS 480.990 and OAR 837-012-0560.

Stat. Auth.: ORS 480.122 & ORS 480.124
Stats. Implemented: ORS 480.110 - ORS 480.165
Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0005; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02

837-012-0310

Agricultural Permit Applications

(1) Any *person* engaged in, or intending to engage in, the use of *agricultural fireworks* must apply for and obtain an *agricultural permit* issued by the Office of State Fire Marshal.

(2) Upon receipt of a properly completed and approved application, the Office of State Fire Marshal will issue a nontransferable permit to the applicant or *persons* designated to discharge the *fireworks*. The State Fire Marshal may deny any application for a permit to discharge *agricultural fireworks* upon determining the proposed purchase or use is not in accordance with these rules or applicable statutes. A separate *agricultural permit* must be applied for and obtained for each *person* who desires to use *agricultural fireworks*.

(3) The *permit application* for an *agricultural fireworks permit* must be made on a form provided by the Office of State Fire Marshal.

(4) All information provided by the applicant on the *permit application* must be true and correct to the *agricultural permit* applicant's knowledge.

(5) As part of the *permit application* process, the applicant *must* obtain the signature of either the state game management or federal game management authority on the *permit application*.

(6) The applicant *must* obtain the signature of the game management authority prior to submitting the *permit application* to the Office of State Fire Marshal.

(7) *Permit applications* that do not contain the signature required in OAR 837-012-0360(5) will not be approved, and will be returned to the applicant.

(8) The Office of State Fire Marshal will either grant or deny *permit applications* within 10 days following receipt of a properly completed and submitted *permit application*.

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0010; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02; OSFM 7-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0315

Definitions

(1) "Agent" means an *individual* designated by the *permit holder* to pick up the *agricultural fireworks* authorized by the *agricultural permit* from an Oregon licensed *wholesaler* when the *permit holder* is unable to pick up the *agricultural fireworks*. The *agent* must have the *agricultural permit* (or a copy) issued by the State Fire Marshal in their possession at the time the *agricultural fireworks* are picked up from the *wholesaler*.

(2) "Agricultural Fireworks" (also referred to as explosive pest control devices) means *fireworks* designed and intended solely for the use in controlling wildlife pests and that has a container that is a cardboard/pasteboard-type tube not exceeding 4" in length and 3/4 inch in diameter or a shotgun shell type container. Such devices may only contain pyrotechnic compositions, e.g., black powder, flash powder, or smokeless powder. The component that produces the audible report may not contain more than 40 grains (2.592 grams) of explosive composition. *Agricultural fireworks/explosive pest control devices* must be tested, classified and approved by the United States Department of Transportation. *Agricultural fireworks* may be used only for the purpose of scaring away or repelling birds or animals pursuant to ORS 480.122 or controlling Predatory Animals pursuant to ORS 480.124. *Agricultural fireworks* do not include *retail fireworks, public display fireworks, or exempt fireworks*.

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(3) "Agricultural Permit" means the official written document issued by the Office of State Fire Marshal pursuant to ORS 480.122 and 480.124 and OAR 837-012-0305 through 837-012-0370 granting permission to a *person* to use *agricultural fireworks*.

(4) "Exempt Fireworks" means *novelties and trick noisemakers*.

(5) "Fire Protection District" means any district created under the laws of Oregon or the United States, including rural *Fire Protection Districts* and any federal, state or private forest patrol areas. Reference ORS 480.110(2).

(6) "Fireworks" has the meaning provided in ORS 480.110(1). The term includes *retail fireworks, public display fireworks* and *agricultural fireworks*. The term does not include *exempt fireworks*.

(7) "Illegal Fireworks" means any *fireworks* other than those described in ORS 480.127(4) including but not limited to, any *firework* that flies into the air, or explodes or behaves in an uncontrolled and unpredictable manner.

(8) "Individual" means a single human being.

(9) "Individual Member of the General Public" means any *person* who has not been issued a wholesale permit, a general, limited or special effects public display permit, a retail permit or an *agricultural permit* by the Office of State Fire Marshal.

(10) "Local Fire Authority" means the *local fire authority* having jurisdiction over the *agricultural fireworks* use and storage sites.

(11) "May" means a regulation of conduct and implies probability or permission.

(12) "May not" means a prohibition of conduct.

(13) "Must" means a mandatory requirement.

(14) "Novelties and Trick Noisemakers" means those items described in ORS 480.110(1)(a) through 480.110(1)(b) and NFPA 1124, Section 1.4, 2003 Edition. It also means *exempt fireworks*.

(15) "Permit Application" means the form and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of an *agricultural permit*.

(16) "Permit Holder" means the *person* referred to in ORS 480.122 who:

(a) Desires to purchase, maintain, use, and explode *agricultural fireworks* for the purpose of scaring away or repelling birds or animals which are or may be injurious or destructive to forest or agricultural products or crops,

(b) Has applied to the State Fire Marshal for an *agricultural permit*;

(c) The State Fire Marshal has issued an *agricultural permit* referred to in ORS 480.122;

(d) Is responsible for any activities conducted under the *agricultural permit*.

(17) "Person" means one or more *individuals*, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of *persons* and includes the state, state agencies, counties, municipal corporations, school districts and other public corporations.

(18) "Public Display Fireworks" means *fireworks* that are authorized under a general, limited, or special effects public display permits issued pursuant to ORS 480.130, 480.140 and 480.150.

(19) "Retail Fireworks" means those items described in ORS 480.127(4), specifically *combination items, cone fountains, cylindrical fountains, flutter sparklers, ground spinners, illuminating torches, and wheels*. The term does include a *firework* designed with the means to roll or move while remaining on the ground, that travels 12' or less horizontally on smooth surfaces.

(20) "Sell" means to transfer possession of property from one *person* to another *person* for consideration.

(21) "Wholesaler" means any *person* who *sells* or provides by any other means, or intends to sell or provide by any other means *fireworks, retail fireworks, public display fireworks, or agricultural fireworks*.

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0015; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02; OSFM 7-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0320

Storage of Agriculture Fireworks

Agricultural fireworks must be stored in accordance with the requirements of these rules, the Oregon Fire Code and the Oregon Structural Specialty Code.

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165

837-012-0325

Permits-Denials, Suspensions, Revocations

(1) The State Fire Marshal *may* deny, suspend or revoke an *agricultural permit* for violation of ORS 480.110 through 480.165 and OAR Chapter 837, Division 12. Any such revocation, suspension or denial will be in conformance with ORS 183.310 to 183.550.

(2) The period of denial, suspension or revocation *may not* exceed three years.

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(3) The following criteria are used by the Office of State Fire Marshal to determine the appropriate sanction:

(a) The severity of the violation or violations and the impact on public safety, particularly if the circumstances of a violation presented a significant fire hazard or other public safety danger;

(b) The number of similar or related violations; alleged to have been committed in the current transaction or occurrence;

(c) Whether the violation or violations were willful or intentional;

(d) The prior history of sanctions imposed by the Office of State Fire Marshal against the *agricultural permit holder* or applicant; and

(e) Other circumstances determined by the Office of State Fire Marshal to be applicable to the particular violation or violations.

(4) Suspension or revocation of an *agricultural permit* may include suspension or revocation of the current permit and the right to apply for a subsequent permit.

Stat. Auth.: ORS 480.122 & ORS 480.124

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0025; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02

837-012-0330

General

(1) *Agricultural permit holders* desiring to engage in other types of *fireworks* activities, including wholesale sales, public displays or retail sales, *must* meet all applicable requirements in ORS 480.110 through 480.165 and OAR Chapter 837, Division 12.

(2) *Agricultural permit holders must* notify the Office of State Fire Marshal, in writing, within 24 hours of the date of change, of:

(a) The *agricultural permit holder's* mailing address, telephone number,

(b) The storage address of the *agricultural fireworks*.

(3) Change of the storage location of the *agricultural fireworks* is subject to prior written approval by the *local fire authority* and the Office of State Fire Marshal.

(4) *Agricultural permit holders must* comply with all applicable federal, state and local laws, rules and regulations including, without limitation:

(a) ORS 480.110 through 480.165;

(b) OAR Chapter 837, Division 12;

(c) Oregon Fire Code, 2004 Edition; and

(d) Oregon Structural Specialty Code, 2004 Edition.

(5) *Agricultural permit holders must* purchase *agricultural fireworks* only from *wholesalers* having the necessary and current *permits* required by ORS 480.110 to 480.160 and OAR 837-012-0500 through 837-012-0570.

(6) *Agricultural permit holders may* request a duplicate copy of their *agricultural permit* by certifying to the Office of State Fire Marshal, in writing, their *agricultural permit* has been lost, stolen, or destroyed. Written requests *must* be signed and dated by the *agricultural permit holder*.

(7) The issuance of an *agricultural permit* does not in any way constitute approval by the Office of State Fire Marshal of any *agricultural fireworks* purchased, sold, or provided pursuant to the *agricultural permit*.

(8) An *agricultural permit* allows the *permit holder* to engage in the purchase, transportation, possession, storage and use of *agricultural fireworks* when those activities are otherwise in conformance with the applicable requirements of ORS 480.110 through 480.165, OAR Chapter 837, Division 12 and any other federal, state or local laws, rules or regulations pertaining to *fireworks*.

(9) An *agricultural permit* does not authorize the:

(a) Purchase, possession or sale of *illegal fireworks* by or to any *person*; or

(b) The sale, re-sale, or provision of *agricultural fireworks* by or to any *person* other than the *agricultural permit holder*.

(10) Any *agricultural permit holder*, other than an *individual*, is required by the State Fire Marshal to list the name, age, address, and phone number of one *individual* in a management position within their company or organization, on the *permit application*.

(11) *Individuals* firing *agricultural fireworks* shall be a minimum of 18 years of age.

(12) Only the *agricultural permit holder*, and any employees of the *agricultural permit holder*, may engage in activities authorized by the *agricultural permit*.

(13) *Agricultural permits*, and the rights conveyed by the *agricultural permit*, are not transferable.

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0030; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02; OSFM 7-2005, f. 5-24-05, cert. ef. 6-7-05

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837-012-0340

Permit Fees

There are no fees for this application.

Stat. Auth.: ORS 480.122

Stats. Implemented: ORS 480.122 & ORS 480.124

Hist.: OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02

837-012-0350

Issuance of Agricultural Permits

(1) Each *agricultural permit* contains a unique number assigned by the Office of State Fire Marshal.

(2) Only one agricultural permit is required for each agricultural location. A permit application may contain multiple use locations provided each location is owned, leased, or used by the permit holder.

(3) The *agricultural permit* is valid only for the location of use listed on the *agricultural permit*.

(4) The *agricultural permit* will be mailed to the *permit holder* at the mailing address listed on the *permit application*.

(5) An initial *agricultural permit* issued by the Office of State Fire Marshal is valid from the date of issue up to three years as determined by the OSFM.

(6) Upon renewal, *agricultural permits* are valid for a period not to exceed three years.

Stat. Auth.: ORS 480.122

Stats. Implemented: ORS 480.122 & ORS 480.124

Hist.: OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02

837-012-0360

Purchase of Agricultural Fireworks

(1) *Permit holders* must be 18 years of age or older.

(2) *Agricultural permit holders* may purchase or otherwise obtain *agricultural fireworks* only from *wholesalers* who possess a valid and current wholesale permit issued by the Office of State Fire Marshal. Exception: In the case of state game management or federal game management authorities who provide agency approved game management assistance to *permit holders*; once a *permit* has been issued – state game management or federal game management authorities may supply *agricultural fireworks* to the *permit holder* under the following criteria:

(a) *Agricultural permit holders* may only obtain *agricultural fireworks* listed on their *agricultural fireworks permit*.

(b) The state game management or federal game management authority who supplies *agricultural fireworks* must maintain a record of all *agricultural fireworks* supplied and make such records available to the Office of State Fire Marshal upon request.

(c) Any decision by a state game management or federal game management authority to supply *agricultural fireworks* must be in conformance with their specific agency policies and procedures for the distribution of *agricultural fireworks*.

(3) Once an *agricultural fireworks permit* has been issued and the *wholesaler* selected; if an *agricultural permit holder* desires to obtain *agricultural fireworks* from another wholesaler, the *agricultural permit holder* must notify the Office of State Fire Marshal at least 24 hours prior to purchasing the *agricultural fireworks* from another licensed *agricultural fireworks wholesaler*.

Stat. Auth.: ORS 480.122

Stats. Implemented: 480.122 & ORS 480.124

Hist.: OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02

837-012-0370

Prohibited Acts and Limitations

(1) An *agricultural permit* does not allow the *permit holder* to purchase, possess, or *sell* any other types of *fireworks*.

(2) *Agricultural fireworks* may not be utilized for any purpose other than the use as stated on the *permit application*.

(3) *Agricultural fireworks* utilized for any other use than the permitted use may result in the immediate suspension of the *agricultural permit* and confiscation of the unused *agricultural fireworks*.

(4) A *permit holder* may not *sell* or provide by any other means *agricultural fireworks* or any other *fireworks* to any other person including other *permit holders*.

(5) The *agricultural permit* does not authorize the manufacture, sale, use, discharge or possession of *agricultural fireworks* in any city or county where *agricultural fireworks* are prohibited by law or ordinance.

(6) No *permit holder* may maintain or allow the existence of a fire hazard at any location under their control where *agricultural fireworks* are stored, transported, or used.

(7) *Permit holders* may not provide *agricultural fireworks* to anyone other than an authorized employee or owner of the *permit holder's* business for the purpose specified on the *permit applications*.

Stat. Auth.: ORS 480.122

Stats. Implemented: 480.122 & ORS 480.124

Hist.: OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02