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ARCHIVES DIVISION  
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## **NOTICE OF PROPOSED RULEMAKING**

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603

**DEPARTMENT OF AGRICULTURE**

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**FILED: 06/15/2026 9:39 AM**

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Amending Slow Pay No Pay Program Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/31/2026 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

**CONTACT:**

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635 Capitol St NE  
Salem, OR 97301

**Filed By:**

Sunny Summers  
Rules Coordinator

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**HEARING(S)**

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 07/15/2026

TIME: 10:00 AM - 11:00 AM

OFFICER: Sunny Summers

**REMOTE HEARING DETAILS**

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 226982965825058

**SPECIAL INSTRUCTIONS:**

Meeting ID: 226 982 965 825 058

Passcode: Sw76VC65

Dial in by phone

+1 503-446-4951,,751614964#

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**NEED FOR THE RULE(S):**

The purpose of this rulemaking is to amend Oregon Administrative Rules (OAR) Chapter 603, Division 47 and Division 56 to address three areas of program administration relating to slow pay no pay investigations, issuing notices, and license suspension and probation. First, we will clarify the investigation and determination process for the Slow Pay No Pay complaints for both agricultural and other seed kinds. The rules will streamline the process for issuing notices once a determination of non-payment or slow payment has been made by the department. The rules will update license suspension and probation terms to address Slow Pay No Pay violations and include corrective actions. Finally, these rules will increase the interest penalty charged to dealers found in violation of the law in response to passage of House Bill 4065 in the 2026 Legislative Session.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes – OLIS website.  
OR Laws 2026, Chapter 41 - OLIS website.

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

No impact is anticipated.

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FISCAL AND ECONOMIC IMPACT:

Minimal fiscal impact to state agencies, units of local government, or the public. The fee for submitting a Slow Pay No Pay complaint was increased from \$50 to \$100 per complaint pursuant to House Bill 4065 (2026). However, the fee (\$150) for filing a notice was removed. This is a net decrease of \$100 in fees.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s):

State Agencies:

Oregon Department of Agriculture is the agency responsible for enforcing these rules. The complaint fee collected is used to fund the program's investigations.

Local Government:

None

Members of the Public:

None

(2) Effect on small businesses: (a) estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

a) This is a complaint driven program; only seed growers or producers who file complaints would be subject to the

complaint fee.

- b) There are no new reporting, recordkeeping, or other administrative requirements.
- c) None.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Seed growers and dealers, many of whom own or operate a small business, were invited members of the Rules Advisory Committee on April 30, 2026. The RAC also included representation from the Oregon Seed Association (OSA), Oregon Seed Council (OSC), Oregon Grass Seed Bargaining Association (OGSBA), and commodity commissions.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

603-047-0010, 603-047-0200, 603-047-0300, 603-047-0400, 603-047-0500, 603-056-0030, 603-056-0050, 603-056-0060

AMEND: 603-047-0010

RULE SUMMARY: Updates definitions.

CHANGES TO RULE:

603-047-0010

Definitions ¶¶

Unless the context or a specifically applicable definition requires otherwise, the following definitions shall apply to OAR 603-047-04010 to 603-047-0500: ~~Rules promulgated under the authority of ORS Chapter 576, Payment for Agriculture Commodities (Seeds).~~ ¶¶

- (1) "Agricultural seed" means grass seed of a type commonly sold for use in turf lawns or as forage seed. ¶¶
- (2) "Authenticate" has the meaning given that term in ORS 79.0102. ¶¶
- (3) ~~"Complaint" as used in this rule~~ "Complaint" means a written ~~complaint~~ notice submitted to the ~~d~~ Department by a producer or grower pursuant to ORS 576.738 alleging a failure by a seed dealer to make any payment or timely payment ~~und~~ that complies with OAR 603-047-0200(1). ¶¶
- (3) ~~"Complainant" means a producer or seed bailment contract, seed production contract or seed purchase contract~~ grower who submits a complaint to the Department. ¶¶
- (4) "Department" means the ~~State~~ Oregon Department of Agriculture. ¶¶
- (5) ~~"Reasonable Price" means the value~~ "Other seed" means ~~seed of~~ a grass seed kind, variety (or similar variety) and quality (or similar quality) during a time frame corresponding with the date in which payment was due. mixture of seed grown for commercial purposes, except that "other seed" does not include: ¶¶
- (6a) ~~"Financial Assurance" as used in ORS 576.741 means any written assurance attesting to the applicant's financial abilities as obligated under seed production~~ Agricultural seed or a mixture containing agricultural seed. ¶¶
- (b) ~~Any seed or mixture of~~ seed purchase contracts and may include a surety bond. ¶¶
- (7) ~~"Notice of failure to make payment," as used in ORS 576.738 and this OAR means a notice made by the department to a seed dealer of failure to make payment under a seed production contract or a seed purchase contract as described in 576.738 for which a final order affirming the notice has been issued. It does not include a notice that has been withdrawn or successfully appealed~~ that the Director of Agriculture excludes by rule in response to a request by a producer organization or other producer group. ¶¶
- (c) ~~Seed or a mixture of seed produced or processed under ORS 475C.770 to 475C.919.~~ ¶¶
- (8b) ~~"Producer" means a person that grows agricultural seed~~ or other seed in this state on a commercial basis for a seed dealer. ¶¶
- (9) ~~"Seed Bailment Contract" means a seed production contract under which the seed dealer retains title to all seed, seed stock and plant life grown or used by the producer under the terms of the contract.~~ ¶¶
- (10) ~~"Seed Dealer" means a person that in the ordinary course of business contracts to buy agricultural seed or other seed grown in this state by a producer~~ seed grower or contracts with a producer for the growing of agricultural seed ~~in this state.~~ ¶¶
- (11) ~~"Seed Deliver" means the date on which or other seed grower delivers grass seed to the seed dealer pursuant to a notice from the dealer~~ in this state. ¶¶

~~(128)~~ "Seed Grower" means a person ~~that~~who grows agricultural seed or other seed in this state on a commercial basis without entering into a contract with a seed dealer prior to harvesting of the seed.¶

~~(139)~~ "Seed Production Contract" means a written agreement between a producer and a seed dealer for the growing of agricultural seed or other seed in this state.¶

(140) "Seed Purchase Contract" means a written agreement for a seed dealer to purchase agricultural seed or other seed that has been grown by a seed grower. "Seed purchase contract" does not include a seed production contract.¶

~~(15)~~ "Variety Not Stated Seed" means ~~agricultural seed that is sold in unmarked plastic bags or other unmarked containers without any reference to a variety name for the seed.~~

Statutory/Other Authority: ORS 561.190, 576.738, 576.741, 576.744, 633.660, ~~633.670~~, 633.680

Statutes/Other Implemented: ~~ORS 576.738, 576.741, 5746.744~~, OR Ch L 2026 c. 41

AMEND: 603-047-0200

RULE SUMMARY: This rule was updated to more clearly describe the process for a grower or seed producer to submit a Slow Pay No Pay complaint to the department. The department's review of the complaint and actions once a determination has been made were also clarified. The fee for submitting a complaint was increased pursuant to HB 4065 and the fee for filing a notice was removed.

CHANGES TO RULE:

603-047-0200

Seed dealer Failures to Timely Make Payment; Fee ¶

~~Pursuant to ORS 576.738, all producers or growers making a complaint of no payment or untimely payment must submit the complaint in writing to the department.¶~~

~~(1) Prior to (1) Complaint. If a seed dealer failing a complaint of untimely or nonpayment with the department, as to make full payment to a producer or seed grower [or producer must agricultural] send a notice to the dealer of the amount owed.¶~~

~~(2) Unless expressly provided otherwise in a seed production contract that is authenticated by the or other seed when payment is due under a seed production contract or a seed purchase contract, a producer and/or seed dealer prior to the producer planting the agricultural seed, a producer shall upon notify grower may file a complaint with the Department. A complaint must be in writing and include the following:¶~~

~~(a) Records relating to the dealer of seed quality test results, indicating that the seed is eligible for sale, shall also notify a seed dealer, in writing, no later than 30 days prior to commencement of storage fees, a rate for storage fees and the date in which storage fees will commence.¶~~

~~(3) A written complaint must include all documents and information as required by the department and must include a fee of \$50.¶~~

~~(a) Upon receipt of the fee and written complaint seed lot(s) at issue in the complaint, such as contracts, seed tests, bills of lading, delivery or shipping documents, and/or communication between the complainant and dealer that the complainant believes demonstrates full payment has not been made when due. The complainant has the burden of providing prima facie evidence that full payment has not been made when due:¶~~

~~(b) Documentation that the department shall verify monstates that the complainant has provided all information required to make a determination and request additional information from the complainant if necessary.¶~~

~~(b) Consistent with law, the agency may initiate an investigation to determine the validity of the complaint attempted to obtain payment from the seed dealer, and information about the dates of such request(s) and the response, if any, by the seed dealer; and¶~~

~~(c) A fee of \$100.¶~~

~~(4) Upon Review. The Department's determination that a complaint of untimely or nonpayment is valid and correct shall review a complaint and any other information or evidence compiled by the Department shall notify the seed dealer in writing that the dealer has 30 days to pay whether the seed dealer has failed to make payment when producer or seed grower all delinquent monies plus interest on each delinquent amount at the rate of one percent per month simple interest from the final payment date for that delinquent amount and that failure to make payment as described in the notice may result in the suspension of payment was due. As part of its review, the Department may:¶~~

~~(a) Request the complainant to provide any additional information:¶~~

~~(b) Demand records relevant to the complaint from the seed dealer's license; and¶~~

~~(a) The department must notify the seed dealer of its determination consistent with ORS Chapter 183 and as described in OAR 603-047-0400, and shall serve its notice on the seed dealer Consult with or request records from other relevant parties.¶~~

~~(3) Determination. Based on the information compiled through the Complaint and on any and all persons to whom payment is due under the contract.¶~~

~~(b) The complainant or respondent may challenge and offer evidence to prove or disprove the department's notice in a contested case hearing.¶~~

~~(5) The Department may post a notice issued pursuant to subsection (2) above on its web page and in a newspaper of general circulation. This notice shall include the following information:¶~~

~~(a) The name of information obtained under paragraph (2), the Department shall determine whether the seed dealer has failed to make payment consistent with ORS 576.718(1)(b) or ORS 576.783(1)(b).¶~~

~~(a) The Department shall issue an order to the complainant and the seed dealer to whom reflecting the Department has issued a notice;¶~~

(b) A statement that's determination.

(b) If the Department has determined as a preliminary matter that the nameds that payment is due, the seed dealer owes shall make payment to a grower/producer and the complainant within 30 days of the namdate of the grower/producer;

(c) A statement allowing any person to file a complaint as described in subsection (1) of this section with the Department within 30 days of publication of the notice.

(6) If it appears that no determination may be made that payment has not been made in accordance with the terms of a seed production contract or seed purchase contract, or that the department does not have jurisdiction over the complaint, the department order all delinquent amounts plus interest

(A) Interest shall be calculated at the rate of one percent above the bank prime loan interest rate set forth in the most recent Federal Reserve Statistical Release H.5 per month from the final payment date for that delinquent amount.

(B) The seed dealer shall apprise the complainant in writing of its final decision not to pursue the complaint.

(7) The complainant producer or grower shall submit to the department a payment of \$150 for each notice of payment demand made to a seed dealer prior to the department's issuance of the notice provide the Department with written notice within the 30-day period that it has made full payment as required in the order. The written notice must include documentation of the payment.

Statutory/Other Authority: ORS 561.190, 576.738, 576.741, 576.744, 633.660, ~~633.670~~, 633.680

Statutes/Other Implemented: ~~ORS 576.738, 576.741, 5746.744~~, OR Ch L 2026 c. 41

RULE SUMMARY: This rule consolidates and clarifies actions related to issuing notices of license suspension in compliance with ORS Chapter 183 related to Slow Pay No Pay complaint violations. This rule combines language that had been scattered in previous sections of this chapter to increase rule comprehension.

CHANGES TO RULE:

603-047-0300

Seed Dealer Financial Assurance; Rules; License Refusal; Agents-Departments Notice of Suspension under ORS 576.738 or ORS 576.802

As used in ORS 576.741 and this rule, unless the context or a specifically applicable definition requires otherwise.

(1) "Officer" means any of the following individuals:

(a) A president, vice president, secretary, treasurer or director of a corporation;

(b) A general partner in a limited partnership;

(c) A manager in a manager-managed limited liability company;

(d) A member of a member-managed limited liability company;

(e) A trustee;

(f) A person or group of persons who direct or cause the direction of the management and policies of a licensed seed dealer person, whether through ownership of voting securities, by contract or otherwise.

(g) "Owner" means the sole proprietor of, partner in or holder of a controlling interest in the named entity on an application for a seed dealer's license.

(2)(a) As a condition of issuing a seed dealer license (1) If a seed dealer fails to make payment as required in an order issued under ORS 633.70 AR 603-047-0200(3), the Department shall require the following financial assurance when:

(b) If during the preceding year a seed dealer, owner or officer of a seed dealer's license has received a final order suspending the dealer's license and the final order is not withdrawn or successfully appealed, but the seed dealer has demonstrated to the satisfaction of the department that the dealer is current on all payments described in a final order, the department may issue a suspension to the seed dealer named in the order that suspends the seed dealer's license but shall require a surety bond or irrevocable letter of credit for not less than \$100,000 prior to issuing or renewing a license. This bond must be maintained for a period of time not less than 5 years from the date of issuance of the new or renewed license.

(3)(a) The department may refuse to issue or renew a seed dealer license to a seed dealer, owner or officer of a seed dealer, for which the license has been suspended under ORS 576.738, or may refuse to issue or renew a seed dealer license to an officer of a seed dealer at the time of an event that resulted in the license of the seed dealer being suspended, or of a person who exercised substantial control over the seed industry activities of a seed dealer at the time of an event that resulted in the license of the seed dealer being suspended under 576.738.

(b) The department must notify applicant of its decision to refuse to issue or renew a seed dealer license in writing consistent with ORS Chapter 183 and as described in compliance with ORS chapter 183.

(2) If the seed dealer does not provide written notice required under OAR 603-047-04200, and shall serve its notice on the applicant and on any party to the previous action resulting in suspension of the seed dealer's license.

(4) Any seed dealer or person who was an officer or agent for a seed dealer at the time of an event that resulted in the license of the seed dealer being suspended may provide evidence (3)(b)(B) to the Department as to why a seed dealer license should not be suspended and may include evidence:

(a) That the seed dealer named in the order on suspension is current on all payments due as described in a final order issued by the Department;

(b) That the person or entity making the application is not or did not exercise substantial control over the business or activities causing the suspension of the seed dealer license; or

(c) That the person or entity making the application did not have actual authority to establish the performance obligations of the seed dealer under the contract at issue in any seed dealer license suspension.

(5) The department may corroborate the evidence submitted by a seed dealer with any seed growers or producers who were a party to the suspension proceeding in which the seed dealer's license was suspended. If significant disputes remain regarding the evidence submitted by ap, the Department may issue a Notice of Suspension that suspends the seed dealer's license to the seed dealer named in the order in compliance, the department shall refer the issue of whether the seed dealer has made satisfactory payment to an evidentiary hearing with ORS chapter 183.

Statutory/Other Authority: ORS 561.190, 576.738, 576.741, 576.744, 633.660, ~~633.670~~, 633.680

Statutes/Other Implemented: ~~ORS 576.738, 576.741, 5746.744~~

AMEND: 603-047-0400

RULE SUMMARY: This rule describes when the department may refuse to renew a license when a licensee has been found in violation of Slow Pay No Pay. This rule also describes what steps may be taken to reissue a license when a license has been suspended for violation of Slow Pay No Pay. This rule combines language that had been in scattered in previous sections of this chapter to increase comprehension of the process.

CHANGES TO RULE:

603-047-0400

Departments Notice; Right to Contested Case Hearing; Refusal to Renew License; Reissuance after Suspension ¶¶

~~(1) A notice issued by the department pursuant to OAR 603-047-0200 and 603-047-0300 must be in writing, is subject to any applicable provisions of ORS Chapter 183, and shall include:¶¶~~

~~(a) A reference to the particular statute and administrative rule involved in the department's determination;¶¶~~

~~(b) A statement explaining how the amount of nonpayment was calculated. The definitions in ORS 576.741(1) and ORS 576.806(1) apply to this rule, in addition to those in OAR 603-047-0010.¶¶~~

(2) Refusal to Renew. The Department may refuse to issue or renew a seed dealer license to a seed dealer, or owner or officer of a seed dealer, for which the license has been suspended under ORS 576.738 or ORS 576.802, or may refuse to issue or renew a seed dealer license to a person who exercised substantial control over the seed industry activities of a seed dealer at the time of an event that resulted, or how the payment is untimely or both, in the license of the seed dealer being suspended under ORS 576.738 or ORS 576.802.¶¶

~~(c) A statement explaining that the seed dealer's license Reissuance of License. A license suspended under OAR 603-047-0300 and ORS 576.738(3) or ORS 576.802(3) shall not be reissued and the seed dealer or renewed until the seed dealer has not demonstrated to the satisfaction of the Department that the dealer is current on all payments due as described in a final order issued by the Department and that the Department may refuse to issue or renew the seed dealer license;¶¶~~

~~(d) A statement explaining that a license applicant is an officer, owner or agent of the entity holding a seed dealer's license that was suspended;¶¶~~

~~(e) A statement of the person's right to request a hearing within 60 days to all producers and seed growers. To demonstrate to the Department that the seed dealer is current on all payments, the Department may require any of the following:¶¶~~

~~(a) A third-party audit, paid for by the seed dealer, of receipt of the notice and an explanation of how a hearing may be requested;¶¶~~

~~(f) A statement that a collaborative dispute resolution process is available as an alternative to a contested case hearing, and that choosing such process will not affect the right to a contested case hearing if a hearing request is received by the agency within the time period stated in the notice and the matter is not resolved through the collaborative process; to identify one, subject to Department approval;¶¶~~

~~(b) A copy of any relevant records;¶¶~~

~~(c) A declaration, signed under penalty of perjury, from the seed dealer, declaring that the seed dealer is current on all payments due to all producers and seed growers; and¶¶~~

~~(gd) A statement indicating whether and under what circumstances ODA may issue a final order by default by other information or action the Department determines would assist it in making the determination.~~

Statutory/Other Authority: ORS 561.190, 576.738, 576.741, 576.744, 633.660, ~~633.670,~~ 633.680

Statutes/Other Implemented: ~~ORS 576.738, 576.741, 576.744~~

REPEAL: 603-047-0500

RULE SUMMARY: This rule was removed because it was determined that the agency did not have the authority for the actions described related to informal disposition of contested cases and disputes related to seed quality. For mediation of disputes, this is covered elsewhere in statute and administrative rule.

CHANGES TO RULE:

~~603-047-0500~~

~~Collaborative Dispute Resolution; Mediation~~

~~(1) Resolution of contested cases. The department may enter into an informal disposition of a contested case with the parties to a contested case to resolve any matter identified in the department's notice.¶¶~~

~~(a) Any informal disposition must be in writing and signed by the party or parties to the contested case.¶¶~~

~~(b) The department shall incorporate an informal disposition into a final order resolving all issues described in the notice.¶¶~~

~~(2) Dispute over price stemming from seed quality disputes. When a disagreement over payment or untimely payment stems from a disagreement between the seed dealer and the seed producer or grower regarding the quality of the seed of a contracted or purchased lot, then upon mutual agreement and request of both dealer and producer or grower, the Department may take an official sample of the disputed lot and submit the sample to the Oregon State University, agricultural research station, or other laboratory agreed upon by the parties for testing.¶¶~~

~~(a) The parties may agree that the results of this test shall be binding upon the dealer and producer or grower.¶¶~~

~~(b) The parties may agree that the cost of sampling and testing shall be shared equally between the dealer and producer or grower and dealer, but in no case shall the cost of sampling be ascribed to the department unless by consent of the department.¶¶~~

~~(3) Mediation of disputes. At any time after the department receives a complaint or issues a notice pursuant to OAR 603-047-0200, the parties to the disputed contract may enter into mediation to resolve the matters disputed.¶¶~~

~~(a) The department may keep a roster of qualified mediators to assist parties wishing to mediate the matters disputed and a mediator may be selected by agreement of the parties.¶¶~~

~~(b) Any mediation agreement between the parties must contain a provision for reporting to the department as to whether the mediation successfully resolves the matters asserted in the department's notice. If there is no agreement, the Department may refer the matter to the Office of Administrative Hearings for a contested case hearing.¶¶~~

~~(c) A request for mediation does not toll the time period for requesting a contested case hearing if a notice has been issued.~~

~~Statutory/Other Authority: ORS 561.190, 576.738, 576.741, 576.744, 633.660, 633.670, 633.680~~

~~Statutes/Other Implemented: ORS 576.738, 576.741, 574.744~~

AMEND: 603-056-0030

RULE SUMMARY: Added a definition for Slow Pay No Pay Law.

CHANGES TO RULE:

603-056-0030

Definitions ¶¶

Unless the context clearly requires otherwise, the following definitions apply to all rules in this chapter 603, division 56:¶¶

- (1) "Agricultural Seed" means fiber, forage, and grass crop seed and any other kind of seed or bulblet commonly recognized in this state as agricultural, lawn, or turf seed, and mixtures of any such seed.¶¶
- (2) "Certified," as applied to agricultural, vegetable, or cereal grain seed, means inspected and labeled by, and in accordance with, the standards and rules and regulations adopted by the Oregon State University Seed Certification Program, or in accordance with similar standards established by some similar regularly constituted authority in another state or county.¶¶
- (3) "Conditioner" means any person who cleans, dries, blends, bags, treats, or stores seed.¶¶
- (4) "Complete record" means any and all information which relates to the origin, treatment, viability, kind and variety of each lot of agricultural, vegetable, or flower seed sold in this state. Such information includes seed samples and records of declarations, labels, purchase and sales records, conditioning, bulking, and treatment records, handling and storage records, analyses, copies of tests, and examination records.¶¶
- (5) "Department" means the Oregon Department of Agriculture.¶¶
- (6) "Director" means the Director of the department or the Director's agent.¶¶
- (7) "Enforcement" means any documented action taken by the department to address a violation.¶¶
- (8) "Federal Seed Act" means 7 USC §§ 1551 to 1611 (1994) and 7 CFR §§ 201.1 to 201.78 (2011).¶¶
- (9) "Flagrant" means any violation where the person had knowledge of the law requires and committed a violation regardless of that knowledge.¶¶
- (10) "Flower seed" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold in this state under the name of flower or wildflower seeds. Flower seed is not vegetable seed.¶¶
- (11) "Gravity of circumstance" is the ranking of a violation with respect to its effect, or potential effect, on the public interests reflected in ORS chapter 633. The department ranks a violation as high, medium, or low.¶¶
- (12) "Inert Matter" includes stone, dirt, leafage, stems, badly broken seed, other similar matter and masses of spores. Inert matter is not agricultural seed, vegetable seed, or other crop seed.¶¶
- (13) "Intentionally" means the person acts, or fails to act, with a deliberate or an express purpose to commit the action.¶¶
- (14) "Knowingly" means the person acts, or fails to act, with a practical understanding of, or a distinct skill in, the general activity that was obtained through such means as instruction, study, practice, or experience.¶¶
- (15) "Labeling" is all printed, written, or graphic representations in any form on the container of any seeds or accompanying or pertaining to any seeds, whether in bulk or in containers, and includes representations on invoices.¶¶
- (16) "Letter of Advisement" is a written notice issued by the department that informs a person that the department has made a preliminary determination that a violation may be occurring and informs the person of the potential consequences of any such violation. The Letter of Advisement shall also inform a person of possible corrective actions that may be taken and possible consequences of non-compliance with proposed corrective actions. A Letter of Advisement may be followed by a Notice of Violation or Notice of Imposition of Civil Penalty.¶¶
- (17) "Magnitude of Violation" is the categorization of the severity of a violation in relation to other types of violations after considering its potential to affect the public interests reflected in ORS chapter 633. The department categorizes a violation as major, moderate, or minor.¶¶
- (18) "Notice of Violation" means a written notice issued by the department that informs a person of the existence of a violation, required corrective actions, and the consequences of non-compliance.¶¶
- (19) "Notice of Imposition of Civil Penalty" means a written notice issued by the department that informs the person of the existence of a violation and imposes a civil penalty for the violation. The Notice of Civil Penalty shall inform the person of how the civil penalty was calculated and may require corrective action.¶¶
- (20) Oregon Seed Law means Oregon Revised Statutes 633.511 to 633.996 and Oregon Administrative Rules Chapter 603 Division 56.¶¶
- (21) "Licensee" is any person, including any officer or representative of the licensed entity, that holds a license. A licensee specifically includes, but is not limited to, any of the following individuals of a licensed entity:¶¶

- (a) A president, vice president, secretary, treasurer or director of a corporation;¶
- (b) A general partner in a limited partnership;¶
- (c) A manager in a manager-managed limited liability company;¶
- (d) A member of a member-managed limited liability company;¶
- (e) A trustee;¶
- (f) A person or group of persons who direct or cause the direction of the management and policies of a licensed seed dealer person, whether through ownership of voting securities, by contract or otherwise.¶
- (22) "Other Crop Seed" means that part of any lot or sample of seed that consists of the seed of cereal grain and agriculture, flower, and vegetable seeds other than those named on the label. Other crop seed is not inert matter.-¶
- (23) "Owner" means the sole proprietor of, partner in, or holder of a controlling interest in the named entity on an application for a seed dealer's license.¶
- (24) "Past occurrence of violations" means any violation for which the department issued final order finding a violation of imposing a civil penalty within the preceding five years. It does not include any orders that the department withdrew, that were are successfully appealed (meaning the Department did not issue a final order finding a violation or imposing a civil penalty), or that are the subject of a pending appeal.-¶
- (25) "Percentage of Hard Seed" means the percentage of pure seed of any lot or sample that remains in its normal hard condition at the close of a standard germination test.¶
- (26) "Percentage of Germination" means the percentage of pure seed of a lot or sample that produces satisfactory sprouts before the close of a standard germination test.¶
- (27) "Person" is any individuals, companies, corporations, associations, firms, partnerships joint stock companies, or public or municipal corporations.¶
- (28) "Probation" means a period of time during which a licensee may only operate in compliance with specific terms and conditions established by the department.-¶
- ¶
- (29) "Prohibited Noxious Weed Seed" means the seed of weeds which when established are highly destructive, competitive, and difficult to control by ordinary good cultural practice.¶
- (30) "Pure Seed" means the agricultural or vegetable seed of which there is the largest percentage by weight in any unmixed lot or sample or, in the case of mixtures, means any agricultural or vegetable seed consisting of not less than five percent by weight of the kind or kinds of seed under consideration, not including other crop seed, weed seed, and inert matter.¶
- (31) "Restricted Noxious Weed Seed" means the seed of such weeds as are very objectionable in fields, lawns, or gardens but can be controlled by good cultural practice.¶
- (32) "Retail Seed Dealer" means any person who sells, offers for sale, or holds for sale, agricultural or vegetable seed to ultimate consumers or users for planting purposes.¶
- (33) "Revocation" means the total withdrawal of license and any authorization to sell, offer for sale, or expose for sale any agricultural, flower, or vegetable seed under conditions for which a license is required.¶
- (34) "Slow Pay No Pay Law" means Oregon Revised Statutes 576.700 to 576.744, Oregon Revised Statutes 576.780 to 576.814, and Oregon Administrative Rules Chapter 603 Division 47.¶
- (35) "Suspension" means a period of time during which a license is withdrawn and a person is prohibited from selling, offering for sale, or exposing for sale any agricultural, flower, or vegetable seed under conditions for which a license is required, including, but not necessarily limited to providing information about price, quality, availability, payment terms, or any other information specific to a sale.¶
- (356) "Vegetable Seed" means the seed of those crops usually grown in Oregon in gardens or on truck farms or for canning and freezing purposes and generally known and sold under the name of vegetable seed. Vegetable seed is not flower seed.-¶
- (367) "Violation" means a violation by a person of any provision of ORS 633.511 to 633.750, a violation of any rule adopted pursuant thereto, or a violation of any of the terms or conditions of a final order issued pursuant thereto. Each violation is a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof is a separate and distinct offense. Each violation by a different person is a separate and distinct offense.-¶
- (378) "Wholesale Seed Dealer" means any person who sells, offers for sale, or holds for sale, agricultural or vegetable seed to retailers, distributors, brokers, or other wholesalers for resale.¶
- (389) "Willfully" means the person acted, or failed to act, after considering the potential effects and consequences of the action.

Statutory/Other Authority: ORS 561, 633

Statutes/Other Implemented: ORS 633.711

AMEND: 603-056-0050

RULE SUMMARY: This rule describes the application process for a retail or wholesale seed dealer license. The rule was updated to include disclosure of violations of the Slow Pay No Pay law to be part of the application. Language about financial assurance was moved from another administrative rule to this section to improve comprehension of licensing processes. Minor updates were made for clarity and grammar.

CHANGES TO RULE:

603-056-0050

Seed Dealer License ¶¶

- (1) ~~Both~~ Retail seed dealers and wholesale seed dealers ~~must~~ shall obtain a seed dealer license from the department prior to selling, offering for sale, or exposing for sale any agricultural, flower, or vegetable seed. ¶¶
- (2) ~~Before the department issues any seed dealer license, a~~ person ~~shall~~ must submit a completed application and appropriate annual license fee to request a retail or wholesale seed dealer license from the department. The application shall include the following: ¶¶
  - (a) Names and titles of each person requesting the license. If the applicant is a partnership, corporation, business entity, association, governmental subdivision, or public or private organization, the applicant shall also submit the names and titles of each partner, officer, agent, manager, and principle of that entity; ¶¶
  - (b) Location(s) of the applicant, including a mailing address and registered agent; ¶¶
  - (c) Phone numbers of the applicant; ¶¶
  - (d) Electronic mail address of the applicant if available; ¶¶
  - (e) Ownership structure of the applicant, e.g. proprietorship, partnership, corporation, limited liability company, etc.; ¶¶
  - (f) If an applicant or any of its associated officers, agents, or partners have had or have been found to have violated of the Federal Seed Act, the Oregon Seed Law, Slow Pay No Pay Law, or any other state's laws related to agricultural, flower, or vegetable seed within the 36 months prior to the date of the application, or if the applicant or any of its associated officers, agents, or partners has received a penalty or penalties totaling \$10,000 or more related to agricultural, flower, or vegetable seed dealings or has been placed on probation, had a license suspended, or had a license revoked for any licenses related to agricultural, flower, or vegetable seed dealings. ¶¶
- (3) The department shall furnish first time seed dealer licensees with copies of the Oregon Seed Law. All first time licensees shall read the documents provided. ¶¶
- (4) Department staff ~~shall~~ may contact first time licensees during their initial annual licensing period in order to provide education to aid the licensee in complying with the Oregon Seed Law. ¶¶
- (5)(a) The department may refuse to issue, reissue, or renew a person's seed dealer license when that person's license has been suspended and the person is not yet eligible for reissuance, when the person's license has been revoked, or when that person was an officer of another entity at the time when that entity committed action that resulted in its seed dealer license being suspended or revoked, or when a person who exercised substantial control over the seed industry activities of a seed dealer at the time of an event that resulted in the seed dealers license being suspended or revoked. ¶¶
  - (b) The department ~~must~~ shall notify an applicant of its decision to refuse to issue, reissue, or renew a seed dealer license in writing as a contested case order that is consistent with ORS Chapter 183.430 and ORS 183.415 and ~~shall serve its notice on the applicant and on any party to the previous action resulting in suspension of the seed dealer's~~ ¶¶
- (6) The Department may require, as a condition of issuing or renewing a seed dealer license under ORS 633.700(2), that each seed dealer provide the Department financial assurance for the performance by the seed dealer under any seed production contract or seed purchase contract entered into by the seed dealer. The department may require: a surety bond or irrevocable letter of credit for not less than \$100,000 if during the preceding year a seed dealer, owner, or officer, has received a final order suspending the dealer's license and the final order is not withdrawn or successfully appealed, but the seed dealer has demonstrated to the satisfaction of the Department that the dealer is current on all payments described in a final order. A surety bond or irrevocable letter of credit must be maintained for up to three years from the date of issuance of the new or renewed license.

Statutory/Other Authority: ORS 561, 633

Statutes/Other Implemented: ORS 633.711

AMEND: 603-056-0060

RULE SUMMARY: Added license suspension and probation conditions for violation of Slow Pay No Pay laws.

CHANGES TO RULE:

603-056-0060

Probation, Suspension, Revocation and Re-issuance of Seed Dealer License ¶

(1) In addition to any lawful penalty, the department may impose probation upon a licensee ~~upon issuance of~~ in a Notice of Imposition of Civil Penalty or upon issuance of a Notice of Violation. The department ~~shall~~ may impose probation upon any licensee when a seed dealer license has been suspended or revoked, to become effective upon reissuance of a suspended or revoked license. ¶

(a) When imposed, probation shall be established for the purpose of requiring, monitoring, and documenting of corrective actions of the licensee which relate to violations of the Oregon Seed Law or for requiring, monitoring, and documenting compliance with the Oregon Seed Law. ¶

(b) When imposed following issuance of a final order under the Slow Pay No Pay Law concluding that the seed dealer has failed to make payment, probation shall be established for the purpose of requiring, monitoring, and documenting corrective actions of the licensee which relate to compliance with Oregon's Slow Pay No Pay Law. ¶

~~(b) The department will base the decision of whether to impose probation on whether it determines that probation would be appropriate and beneficial for requiring, monitoring, and documenting corrective actions or for requiring, monitoring, or documenting compliance with the Oregon Seed Law. ¶~~ or Slow Pay No Pay Law. When probation is imposed as described in 603-056-0060(b), the period of probation may be up to three years. For violations of Oregon Seed Law, the department shall base the decision of and the duration of a probationary period on ~~consideration~~ the magnitude of violation as described in OAR 603-056-0540 and the gravity of circumstance as described in OAR 603-056-0540 as follows: ¶

(A) Up to one year a Category III (Minor) violation where the department issued either a Notice of Violation or Notice of Imposition of Civil Penalty of less than \$2,500. ¶

(B) One to three years for the following: ¶

(i) Category III (Minor) violation where the department issued a Notice of Imposition of Civil Penalty greater than or equal to \$2,500; or ¶

(ii) Category II (Moderate) violation where the department issued a Notice of Violation; or ¶

(iii) Category II (Moderate) violation where the department issued a Notice of Imposition of Civil Penalty less than \$20,000. ¶

(C) Three to five years for the following: ¶

(i) Category II (Moderate) violation where the department issued a Notice of Imposition of Civil Penalty greater than or equal to \$20,000; or ¶

(ii) Any Category I (Major) violation where the department issued a Notice of Violation or Notice of Imposition of Civil Penalty. ¶

(2) The department may order suspension of a seed dealer license. The department will base the decision of whether to suspend a seed dealer license on the magnitude of violation(s), gravity of circumstance ascribed to the violation(s) as described in OAR 603-056-540, past occurrences of violations and volume of seed as described in OAR 603-056-0530, and other factors the department considers appropriate. ¶

(a) The department may suspend a license for the following: ¶

(A) Any Category I (Major), Category II (Moderate), or Category III (Minor) violation where the department issued a Notice of Violation or Notice of Imposition of Civil Penalty. ¶

(B) Any violation of Oregon Seed Law. ¶

(b) The Department shall suspend a license if payment is not made or written notice not provided as described in OAR 603-047-0300. ¶

(c) The department may order a suspension concurrently with the issuance of a Notice of Violation or a Notice of Imposition of Civil Penalty or through a separate enforcement action. ¶

~~(d) The department shall base the duration of a suspension period on magnitude of the violation(s), the gravity of circumstance ascribed to the violation(s), and past occurrence of violations as follows and may consider any other factors it considers appropriate when setting a suspension period within the allowable ranges below: ¶~~

(A) Up to three years for the following: ¶

(i) Category III (Minor) violation where the department issued either a Notice of Violation or Notice of Imposition of Civil Penalty. ¶

(ii) Category II (Moderate) violation where the department issued either a Notice of Violation or Notice of Imposition of Civil Penalty. ¶

- (ii)
    - (B) Up to five years for the following:
      - (i) Category I (Major) violation where the department issued either a Notice of Violation or Notice of Imposition of Civil Penalty.
      - (3) The department may order revocation of a seed dealer license. The department will base the decision of whether to revoke a seed dealer license on the magnitude of violation(s), the gravity of circumstance ascribed to the violation(s) as described in OAR 603-056-540, past occurrences of violations and volume of seed as described in OAR 603-056-0530, and any other factors the department considers appropriate.
        - (a) The department may revoke a license for the following:
          - (A) Any Category I (Major) or Category II (Moderate) violation where the department issued a Notice of Imposition of Civil Penalty.
          - (B) Any violation of Oregon Seed law.
          - (b) The department may order revocation concurrently with the issuance of a Notice of Violation or a Notice of Imposition of Civil Penalty or through a separate enforcement action.
        - (4) The department may reissue a license that has been suspended or revoked as follows:
          - (a) The department may reissue a suspended license only when all of the following have occurred:
            - (i) Person(s) have completed any corrective actions ordered by the department; and
            - (ii) In the case where a Notice or Notices of Imposition of Civil Penalty were issued, person(s) have paid all civil penalties imposed; and
            - (iii) The suspension period has expired.
            - (iv) Person(s) have re-applied for a license as described in OAR 603-056-0050.
          - (b) The department may, but is not required to, reissue a revoked license. The department shall only consider reissuing a revoked license when all of the following have occurred:
            - (i) Person(s) have completed any corrective actions ordered by the department; and
            - (ii) In the case where a Notice or Notices of Imposition of Civil Penalty were issued, person(s) have paid all civil penalties imposed; and
            - (iii) A time period has elapsed from the date of the revocation of the license of at least three years for a Category II (Moderate) violation or five years for a Category I (Major) violation.
            - (iv) Person(s) have re-applied for a license as described in OAR 603-056-0050.
- Statutory/Other Authority: ORS 561, 633  
 Statutes/Other Implemented: ORS 633.711