



## PERMANENT ADMINISTRATIVE ORDER

**OSFM 4-2025**

CHAPTER 837

**DEPARTMENT OF THE STATE FIRE MARSHAL**

**FILED**

07/15/2025 3:48 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Grammatical updates, referenced material edition updates, and clarified definition of "operator."

EFFECTIVE DATE: 07/15/2025

AGENCY APPROVED DATE: 07/15/2025

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RULES:

837-020-0035, 837-020-0040, 837-020-0125

AMEND: 837-020-0035

RULE TITLE: Definitions

NOTICE FILED DATE: 05/23/2025

RULE SUMMARY: 837-020-0035 – Added NFPA 10, NFPA 30, NFPA 30A, adjusted numbering, clarified definition of "operator," added the 2022 edition to Oregon Fire Code, Oregon Structural Specialty Code reference 2022 edition.

RULE TEXT:

For purposes of ORS 480.310 to 480.385 and OAR 837-020-0025 through 837-020-0130 only, the following definitions apply:

- (1) "Business Use" means that all Class 1 flammable liquids dispensed into motor vehicles and containers must be used only in the course of business activities.
- (2) "Class 1 Flammable Liquid" means any liquid with a flash point below 25 degrees Fahrenheit, closed cup tester. Note: Diesel fuel is not a Class 1 flammable liquid.
- (3) "Container" means all types of portable containers.
- (4) "Conditional Use Customer" means a person who may dispense Class 1 flammable liquids at a licensed conditional nonretail facility, and meets the requirements of OAR 837-020-0045 through 837-020-0130.
- (5) "Conditional Nonretail Facility" means a nonretail facility licensed by the State Fire Marshal, where conditional use customers may dispense Class 1 flammable liquids.
- (6) "Dispensing" means the transfer of a Class 1 flammable liquid from a facility to a motor vehicle or container.
- (7) "Dispensing Device" for the purpose of determining the number of devices that may be designated for self-serve dispensing, means each individual hose and nozzle or other similar equipment used to dispense Class 1 Flammable Liquids. It does not mean the dispensing cabinet.
- (8) "Documentation" means a verifiable Federal Employer Identification Number or other record that verifies participation in a business or employment with a government agency or nonprofit or charitable organization. Records may be photocopies or facsimiles of the original documents, or printouts of web site licensing information that shows the nonretail customer is eligible to be a nonretail customer.

- (9) "Dual Operations" means a nonretail facility where Class 1 flammable liquids are dispensed at retail and nonretail with either a time separation of the retail and nonretail operations or a separation of the retail and nonretail pump islands by a distance of at least 50 feet.
- (10) "Emergency" means any man-made or natural element or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war.
- (11) "Emergency Management Agency" means an organization created and authorized under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by the state, county or city to provide for and ensure the conduct and coordination of functions for comprehensive emergency program management.
- (12) "Emergency Service Agency" means an agency defined in ORS 401.025 or an entity authorized by an emergency service agency to provide services during an emergency.
- (13) "Emergency Service Worker" means an individual who, under the direction of an emergency service agency or emergency management agency, performs emergency services and:
- (a) Is a registered volunteer or independently volunteers to serve without compensation and is accepted by the office or the emergency management agency of a county or city; or
  - (b) Is a member of the Oregon State Defense Force acting in support of the emergency service system.
- (14) "Emergency Services" means and includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These activities include, without limitation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as "civil defense" in section 3 of the Act of January 12, 1951, P.L. 81-920 (50 U.S.C. 22520).
- (15) "Employee" means an individual who works for an operator or an owner.
- (16) "Equivalent Documentation" means verifiable documentation that meets or exceeds the requirements of documentation required under ORS 480.345. The final decision as to what is acceptable as equivalent documentation rests with the State Fire Marshal.
- (17) "Facility" means a site where Class 1 Flammable Liquids are dispensed. A facility can be either retail, non-retail or a combination of both.
- (18) "General Public" means someone other than a nonretail customer or a conditional use customer.
- (19) "Individual" means a single human being.
- (20) "License" means the official document issued by the State Fire Marshal that authorizes the operation of a nonretail facility or a conditional nonretail facility when otherwise in compliance with all applicable requirements of OAR 837-020-0040.
- (21) "License Application" means the form and accompanying documentation required to be completed and submitted to the State Fire Marshal for approval prior to the issuance of a nonretail facility or a conditional nonretail facility license.
- (22) "May" means a regulation of conduct and implies probability or permission.
- (23) "May not" means a prohibition of conduct.
- (24) "Motor Vehicle" means a vehicle that is self-propelled or designed for self-propulsion, as defined by Oregon Vehicle Code 801.360.
- (25) "Must" means a mandatory requirement.
- (26) "National Fire Protection Association (NFPA)" means NFPA Standards.
- (27) "NFPA 10" means the 2013 edition of the National Fire Protection Association (NFPA) 10 Standards Portable Fire Extinguishers Code.

- (28) "NFPA 30" means the 2012 edition of the National Fire Protection Association (NFPA) 30 Standards Flammable and Combustible Liquids Code.
- (29) "NFPA 30A" means the 2015 edition of the "National Fire Protection Association (NFPA) 30A Standards Flammable and Combustible Liquids Code.
- (30) "Nonretail Customer" means an operating business enterprise, government agency, or nonprofit or charitable organization who otherwise meets the customer requirements of ORS 480.345
- (31) "Nonretail Facility" means an unattended or dual operations facility licensed by the State Fire Marshal, where Class 1 flammable liquids are dispensed through a fuel dispensing device to qualified nonretail customers.

NOTE: A dual operation facility is also a nonretail facility.

- (32) "Non-Rural Oregon" means those counties not defined as Rural Oregon.
- (33) "Operator" means a person that is responsible for, including but not limited to, the safety, maintenance, and functionality of a nonretail facility or a conditional nonretail facility.
- (34) "Oregon Fire Code (OFC) or OFC" means the 2022 edition of the Oregon Fire Code, adopted by the Department of the State Fire Marshal.
- (35) "Oregon Structural Speciality Code (OSSC) or OSSC" means the 2022 edition of the Oregon Structural Speciality Code.
- (36) "Owner" means any person that is the owner of a Nonretail Facility or a conditional Nonretail Facility. An owner may also be an operator.
- (37) "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.
- (38) "Retail Customer" means a person who is not subject to the requirements a Nonretail Customer must meet to dispense Class 1 Flammable Liquids at a Nonretail dispensing facility.
- (39) "Retail Facility" means a facility that sells Class 1 flammable liquids to the general public in compliance with ORS 480.310 and ORS 480.341. It does not mean a Nonretail Facility where retail sales may occur.
- (40) "Retail Sales" means the dispensing of Class 1 flammable liquids to the general public. Retail sales may occur at a Retail Facility or a Nonretail Facility.
- (41) "Rural Oregon" means Baker, Clatsop, Crook, Curry, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.
- (42) "Verifiable Documentation" means documentation that can be verified by the State Fire Marshal as true and accurate.

STATUTORY/OTHER AUTHORITY: ORS 480.380

STATUTES/OTHER IMPLEMENTED: ORS 480.310 - 480.385

AMEND: 837-020-0040

RULE TITLE: General

NOTICE FILED DATE: 05/23/2025

RULE SUMMARY: 837-020-0040 – removed current edition references; added acronym for Oregon Fire Code, added “the building code” to OSSC.

RULE TEXT:

(1) Nonretail Facility and Conditional Nonretail Facility operators desiring to engage in Nonretail Facility or Conditional Nonretail Facility operations must comply with all applicable state, federal and local laws, rules and regulations including, but not limited to:

(a) ORS 480.310 through 480.385;

(b) OAR 837-020-0025 through 837-020-0130;

(c) OFC;

(d) OAR chapter 837, division 85, Hazardous Substance Inventory reporting under the Oregon Community Right to Know and Protection Act; and

(e) NFPA 30 and 30A.

(2) In addition to other applicable provisions of law, each Nonretail Facility and Conditional Nonretail Facility must meet the following requirements as per OAR 837-020-0040:

(a) Instructions for the operation of nonretail dispensers must be clearly and conspicuously posted;

(b) Locations of all fire extinguishers must be clearly and conspicuously posted;

(c) All fire extinguishers must be installed and maintained as required by OFC and NFPA 10;

(d) All fire extinguishers must be readily accessible and immediately available for use to all persons at all times.

(e) Have adequate lighting so the fuel dispensing area is sufficiently illuminated at all times when it is available for use;

(f) All applicable provisions of the OFC must be met.

(3) All Nonretail Facilities and Conditional Nonretail Facilities must have the following signs posted. These signs must be conspicuously posted within sight from each Class 1 Flammable Liquid dispenser and readable from a distance of at least ten feet and state:

(a) The Nonretail Facility or Conditional Nonretail Facility address;

(b) The telephone number of the owner or operator of the facility;

(c) Do not fill unapproved containers;

(d) It is a violation of law, subject to penalty, to dispense Class 1 Flammable Liquids without first receiving the training required by OAR 837-020-0055; and

(e) It is a violation of law, subject to penalty, to dispense Class 1 Flammable Liquids for personal use or into motor vehicles or containers not owned or used by a business, government, non-profit, or charitable organization, per ORS 480.345(4), (not required at Conditional Nonretail Facilities).

(f) Persons dispensing fuel must remain outside the vehicle being fueled, with the fueling nozzle in full view at all times.

(4) In addition to the provisions required by OAR 837-020-0040, Retail and Nonretail Dual Operation Facilities, where the retail and nonretail dispenser islands are separated by distance and dispensing operations occur during the same hours, must:

(a) Have signs visible from each driveway access point identifying the retail and nonretail dispenser islands. These signs must be readily visible and readable, be at least three feet by four feet in size, and have a minimum height of six inch letters on a contrasting background;

(b) Have nonretail dispenser islands separated from retail dispenser islands by a space of at least 50 feet. Nonretail and retail dispenser islands may be separated by a distance of no less than 20 feet, provided prior approval is given by the State Fire Marshal, and that one of the following barriers is present:

(A) An approved solid physical barrier or a solid wall at least four feet high, constructed of fire resistive materials, and which runs the entire length of the pump island; or

- (B) A fire resistive building, meeting the requirements of the OSSC.
- (c) Unless pump islands are separated by at least 50 feet or 20 feet with an approved barrier, retail and nonretail dispensing may not occur during the same hours at a facility.
- (5) Nonretail Facilities in Rural Oregon counties that are not a Dual Operations Facility but allow retail dispensing from the nonretail dispensers, are not subject the requirements of OAR 837-020-0040 (4)(a) through (c).
- (6) Where retail and nonretail dispensing is separated only by time, signs must be visible from each driveway access point and each Class 1 Flammable Liquid dispensing pump stating the days and hours when the separate retail and nonretail operations occur. These signs must be readily visible and readable, be at least three feet by four feet in size, and have a minimum height of six inch letters on a contrasting background.
- (7) At least 45 days prior to the start of intended operations, the facility owner or operator of each new Nonretail Facility and Conditional Nonretail Facility covered by OAR 837-020-0040 must file the appropriate license application forms and certifications with the State Fire Marshal.
- (8) Owners and operators of Nonretail Facilities and Conditional Nonretail Facilities must notify the State Fire Marshal in writing;
- (a) Within fifteen days of a Nonretail or Conditional Nonretail Facility closing or the transaction of a facility being sold having been completed. If the facility is being closed or converted to a retail only facility, the owner or operator must relinquish the nonretail or conditional nonretail license for that facility issued by the State Fire Marshal at the same time as submitting their written notification;
- (b) Within thirty days of the owner or operator business closing or the transaction of the business being sold or merging with another company having been completed.
- (9) No later than 90 days prior to commencing retail sales at a Nonretail or Conditional Nonretail Facility under ORS 480.341 (4) the owner or operator of that facility shall notify the State Fire Marshal in writing they plan to dispense Class 1 Flammable Liquids at retail.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 480.380

STATUTES/OTHER IMPLEMENTED: ORS 480.310 - 480.385

AMEND: 837-020-0125

RULE TITLE: Violations General and Violation Classes

NOTICE FILED DATE: 05/23/2025

RULE SUMMARY: 837-020-0125 – corrected typo "raining" to "training," abbreviated Oregon Fire Code.

RULE TEXT:

- (1) If at any time the State Fire Marshal finds that the owner or operator of a retail, nonretail, or conditional use facility is found to be out of compliance with any requirement established by ORS 480.310 through 480.385, or OAR 837-020-0025 through 837-020-0130, it may impose a civil penalty of up to \$500 for each violation as authorized by ORS 480.385. All penalties are imposed in accordance with the following penalty matrix established by the State Fire Marshal.
- (2) The violation classification established in OAR 837-020-0130 will be used to determine the penalty amount that will be assessed.
- (3) Penalties will be suspended based on the instance of a violation.
- (4) The violation instance is determined by the number of times a person, individual, owner, or operator is found to have committed the same violation of any single requirement established in ORS 480.310 through 480.385, and OAR 837-020-0025 through 837-020-0130.
- (5) Class I violation. Owners or operators of nonretail or conditional use facilities are considered to have committed a Class I Violation if:
- (a) The owner or operator does not have documentation on file at the time of the audit showing a nonretail customer is eligible to be a nonretail customer. The required documentation includes:
- (A) Proof of business or eligibility;
- (B) Proof of meeting the 900 gallon requirement;
- (C) A signed agreement that meets the requirements.
- (b) Facility license applications are not received by the State Fire Marshal by the due date;
- (c) Any of the following signs required to be present at a facility are missing, not legible, not located as required, not of the required minimum size, or in a condition so that it does not meet the intent of the requirement:
- (A) Instructions for the operation of nonretail dispensers;
- (B) Facility address;
- (C) Telephone number of the owner or operator;
- (D) It is a violation of law to dispense Class 1 Flammable Liquids without first receiving the training required by OAR 837-020-0055;
- (E) It is a violation of law, subject to penalty, to dispense Class 1 Flammable Liquids for personal use or into motor vehicles or containers not owned or used by a business, government, non-profit, or charitable organization, per ORS 480.345(4);
- (F) Identifying retail and nonretail dispensers or islands where dual operations separated by distance are being operated;
- (G) Identifying the days and hours of retail and nonretail operations where those are separated by time.
- (d) The owner or operator does not certify the violations listed on a Notice and Order of correction have been abated by the date abatement is required for any Class I violations;
- (e) The documentation required by OAR 837-020-0077(16) is not available or provided when requested.
- (6) Class II violations. Owners or operators of Nonretail, conditional use, or Retail Facilities are considered to have committed a Class II violation if:
- (a) The owner or operator does not have documentation on file at the time of the audit showing a nonretail customer has received and read or watched the required safety training;
- (b) Any of the following signs required to be present at a facility are missing, not legible, not located as required, or in a condition so that it does not meet the intent of the requirement:

- (A) Clearly identifying the location of the emergency fuel shut off device;
  - (B) Location of the fire extinguishers;
  - (C) Smoking is prohibited;
  - (D) Vehicle engines must be shut off while fueling;
  - (E) Do not fill unapproved containers;
  - (F) Portable containers must be removed from inside the trunk, passenger compartment, or truck bed of a vehicle and placed on the ground before filling;
  - (G) Discharge your static electricity before fueling by touching a metal surface away from the nozzle;
  - (H) To prevent static charge, do not re-enter your vehicle while a Class 1 Flammable Liquid is being dispensed;
  - (I) If a fire starts, do not remove nozzle. Use emergency fuel shut off;
  - (J) Persons dispensing fuel must remain outside the vehicle being fueled, with the fueling nozzle in full view at all times;
  - (K) Other signs required by OFC.
- (c) Fire extinguishers are not installed, accessible or maintained as required;
  - (d) Facility does not have adequate lighting at all times when the facility is available for use;
  - (e) Proper drainage grades and curbs are not situated to prevent any spills from flowing towards any building or other pump islands;
  - (f) If a fire alarm transmitting device or a telephone not requiring a form of payment to operate is not provided and accessible at the facility during all hours of operation or if such device is not maintained in good working order, or if such device does not operate;
  - (g) Retail and nonretail dispensing that occurs during the same hours of operation and separated by distance, is not separated by the required minimum distance or barrier;
  - (h) Other provisions required by OFC;
  - (i) Required facility equipment is not present, not working, or not maintained to be in good working order or good condition;
  - (j) The owner or operator does not certify the violations listed on a Notice and Order of correction have been abated by the date abatement is required for any Class II violations.
  - (k) A retail facility in a Non-Rural county, does not post signs that identify which dispensers are designated for attended service and self-service.
  - (l) Signs that identify which dispensers are designated for attended service and self-service are not clearly readable by the operator of a motor vehicle or are not visible from each dispenser or island access point.
  - (m) A retail facility in a Non-Rural county designates more than one half of the operable Class 1 Flammable Liquid dispensers for self-serve or regularly allows self-serve of Class 1 Flammable Liquids to occur at more than half of the operable Class 1 Flammable Liquid dispensers.
- (7) Class III violation. Owners or operators of nonretail facilities, conditional use facilities, or retail facilities, or nonretail customers are considered to have committed a Class III violation if:
- (a) The owner or operator of a retail, nonretail, or conditional use facility allows unauthorized dispensing of Class 1 flammable liquids;
  - (b) The owner or operator of a nonretail or conditional use facility operates such a facility without the required license issued by the state fire marshal;
  - (c) The owner or operator of a nonretail or conditional use facility knowingly falsifies any of the information required to be included on the facility license application;
  - (d) The owner or operator of a nonretail or conditional use facility did not provide the required safety training to a nonretail or conditional use customer prior to giving them access to dispense Class one flammable liquids;
  - (e) The nonretail customer does not completely review the required safety training information as required under ORS 480.345 (5);
  - (f) The owner or operator of a nonretail or conditional use facility does not certify the deficiencies listed on a Notice and Order of correction have been abated by the date abatement is required for any Class III violations.

(g) A Retail station in a Non-Rural county does not designate at least one person from the facility who is readily available to provide attended service at designated attended service dispensing devices upon request or when a person is designated to provide assistance upon request, denies providing such assistance.

(h) A retail facility in a Rural Oregon county that has retail space providing goods or services, other than goods or services for maintaining, repairing or cleaning a motor vehicle, does not make an owner, operator, or employee available for dispensing Class 1 Flammable Liquids after 6:00 AM and before 6:00 PM.

(i) A retail facility in a Non-Rural county is regularly allowing self-serve to occur without designating which Class 1 Flammable Liquid dispenser devices are for self-serve and are for attended service or has made the designations but is not regularly adhering to it.

(j) A retail facility in a Non-Rural county charges a different price for self-serve and attended service of Class 1 Flammable Liquids.

(8) Class IV violation. Owners, operators, or employees of Nonretail or Conditional use facilities are considered to have committed a Class IV violation if:

(a) The owner or operator refuses to abate a violation ordered on a Notice and Order of Correction;

(b) The owner or operator falsely certifies they abated the violations listed on a Notice and Order of Correction when the violations were not abated.

(c) A retail facility in a Non-Rural county allows self-serve dispensing of Class 1 Flammable liquids during hours that an owner, operator, or employee is not available for the dispensing of Class 1 Flammable liquids.

(d) A retail facility does not have the required signage notifying persons with a disability that refueling assistance may be requested and how to request it.

(e) A retail facility has charged a person with a disability an additional fee or a higher per gallon price for providing refueling assistance of Class 1 Flammable Liquids pursuant to ORS 480.344.

(f) A retail facility fails to provide attended service as required pursuant to ORS 480.344.

STATUTORY/OTHER AUTHORITY: ORS 480.380

STATUTES/OTHER IMPLEMENTED: ORS 480.380, 480.385