

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of State Police	Chapter 257/Division 050
Agency and Division	Administrative Rules Chapter Number

Cort Dokken	255 Capitol Street, 4 th Floor Salem, Oregon 97301	(503) 934-0228
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Rules Coordinator	Address	Telephone
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RULE CAPTION

Clarifies which tow businesses and individuals are subject to the rules; method of recording hearings

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

November 24, 2009	10:30 AM	255 Capitol St., Basement Conference Room "C", Salem Oregon 97301	Lt. Ethan Wilson
Hearing Date	Time	Location	Hearings Officer

Hearing Date	Time	Location	Hearings Officer
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Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 257-050-0020; 257-050-0040; 257-050-0050; 257-050-0060; 257-050-0070; 257-050-0090; 257-050-0095; 257-050-0100; 257-050-0110; 257-050-0115; 257-050-125; 257-050-0130; 257-050-0140; 257-050-0145; 257-050-0150; 257-050-0155; 257-050-0157; 257-050-0170; 257-050-0180; 257-050-0200

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth. : ORS 181.440

Other Auth.:

Stats. Implemented: ORS 181.440

RULE SUMMARY

These amendments will make permanent the amendments contained in the temporary rules which became effective August 6, 2009. The administrative rules in existence prior to the temporary rule amendments referred to the undefined terms of "approved tow business," "authorized tow business," and "registered tow business," as well as the defined terms of "tow business" and "qualified tow business." Additionally, the rules required that "tow businesses" (when applying for a letter of appointment), or "qualified tow businesses" (after having received a letter of appointment) must be licensed as a "separate legal entity." Moreover, under ORS chapter 648, an "entity" for purposes of licensing includes domestic corporations but not assumed business names. The Department currently has several "qualified tow businesses" on the non-preference tow rotation list that operate under assumed business names. These rules clearly identify which tow businesses may conduct non-preference tows on behalf of the Department and create a clearer distinction between "tow businesses" generally and "qualified tow businesses" in particular, and clarify that "qualified tow businesses" include tow businesses that operate under assumed business names. These rules further clarify that tow businesses acting through their authorized agents or representatives must complete applications for letters of appointment and certify compliance with all applicable laws and the Department's administrative rules. These rules also clarify when the Department shall deny, suspend, or revoke either the application of a tow business, or the letter of appointment of a qualified tow business, when the tow business, qualified tow business, or owner or employee of a tow business or qualified tow business, is convicted of a felony conviction. Finally, these rules delete the requirement that Departmental hearings must be recorded on tape, and allows the Department to record hearings by any means, including digital recording.

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REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth. : ORS 181.440

Other Auth.:

Stats. Implemented: ORS 181.440

RULE SUMMARY

These amendments will make permanent the amendments contained in the temporary rules which became effective August 6, 2009. The administrative rules in existence prior to the temporary rule amendments referred to the undefined terms of "approved tow business," "authorized tow business," and "registered tow business," as well as the defined terms of "tow business" and "qualified tow business." Additionally, the rules required that "tow businesses" (when applying for a letter of appointment), or "qualified tow businesses" (after having received a letter of appointment) must be licensed as a "separate legal entity." Moreover, under ORS chapter 648, an "entity" for purposes of licensing includes domestic corporations but not assumed business names. The Department currently has several "qualified tow businesses" on the non-preference tow rotation list that operate under assumed business names. These rules clearly identify which tow businesses may conduct non-preference tows on behalf of the Department and create a clearer distinction between "tow businesses" generally and "qualified tow businesses" in particular, and clarify that "qualified tow businesses" include tow businesses that operate under assumed business names. These rules further clarify that tow businesses acting through their authorized agents or representatives must complete applications for letters of appointment and certify compliance with all applicable laws and the Department's administrative rules. These rules also clarify when the Department shall deny, suspend, or revoke either the application of a tow business, or the letter of appointment of a qualified tow business, when the tow business, qualified tow business, or owner or employee of a tow business or qualified tow business, is convicted of a felony conviction. Finally, these rules delete the requirement that Departmental hearings must be recorded on tape, and allows the Department to record hearings by any means, including digital recording.

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on October 7, 2009 by the
Date prior to or same as filing date
Oregon Department of State Police Chapter 257/Division 050
Agency and Division Administrative Rules Chapter Number

Cort Dokken 255 Capitol Street, 4th Floor Salem, Oregon 97301 (503) 934-0228
Rules Coordinator Address Telephone

to become effective January 1, 2010. Rulemaking Notice was published in the October 2009 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Clarifies which tow businesses and individuals are subject to the rules; method of recording hearings

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 257-050-0020;257-050-0040; 257-050-0050;257-050-0060; 257-050-0070; 257-050-0090; 257-050-0095; 257-050-0100; 257-050-0110; 257-050-0115; 257-050-0125; 257-050-0130; 257-050-0140; 257-050-0145; 257-050-0150; 257-050-0155; 257-050-0157; 257-050-0170; 257-050-0180; 257-050-0200

REPEAL: 257-050-0020(t), 257-050-0040 (t), 257-050-0050(t), 257-050-0060(t), 257-050-0070(t), 257-050-0090(t), 257-050-0095(t), 257-050-0100(t), 257-050-0110(t), 257-050-0115(t), 257-050-0125(t), 257-050-0130(t), 257-050-0140(t), 257-050-0145(t), 257-050-0150(t), 257-050-0155(t), 257-050-0157(t), 257-050-0170(t), 257-050-0180(t), 257-050-0200(t)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 181.400

Other Auth.:

Stats. Implemented: ORS 181.440

RULE SUMMARY

These amendments will make permanent the amendments contained in the temporary rules which became effective August 6, 2009. The administrative rules in existence prior to the temporary rule amendments referred to the undefined terms of "approved tow business," "authorized tow business," and "registered tow business," as well as the defined terms of "tow business" and "qualified tow business." Additionally, the rules required that "tow businesses" (when applying for a letter of appointment), or "qualified tow businesses" (after having received a letter of appointment) must be licensed as a "separate legal entity." Moreover, under ORS chapter 648, an "entity" for purposes of licensing includes domestic corporations but not assumed business names. The Department currently has several "qualified tow businesses" on the non-preference tow rotation list that operate under assumed business names. These rules clearly identify which tow businesses may conduct non-preference tows on behalf of the Department and create a clearer distinction between "tow businesses" generally and "qualified tow businesses" in particular, and clarify that "qualified tow businesses" include tow businesses that operate under assumed business names. These rules further clarify that tow businesses acting through their authorized agents or representatives must complete applications for letters of appointment and certify compliance with all applicable laws and the Department's administrative rules. These rules also clarify when the Department shall deny, suspend, or revoke either the application of a tow business, or the letter of appointment of a qualified tow business, when the tow business, qualified tow business, or owner or employee of a tow business or qualified tow business, is convicted of a felony conviction. Finally, these rules delete the requirement that Departmental hearings must be recorded on tape, and allows the Department to record hearings by any means, including digital recording.

Timothy McLain

Timothy McLain

10-12-09

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005