

Department of Transportation
Annual Report Regarding Temporary Rules
(ORS 183.403)

Chapter 731

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	21
Amended	42
Repealed	25

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	8
Amended	7
Suspended	0

DOT 5-2024

Filed: 12/04/2024 4:57 PM

- 731-035-0010 Amend
- 731-035-0020 Amend
- 731-035-0030 Amend
- 731-035-0040 Amend
- 731-035-0050 Amend
- 731-035-0060 Amend
- 731-035-0070 Amend
- 731-035-0110 Adopt
- 731-035-0120 Adopt
- 731-035-0130 Adopt
- 731-035-0140 Adopt
- 731-035-0150 Adopt
- 731-035-0160 Adopt
- 731-035-0170 Adopt
- 731-035-0180 Adopt

Statement of Need

The proposed rule establishes the process ODOT will use to accept Connect Oregon grant applications where the applicant intends to use Connect Oregon funds as the required match for federal grants. As currently configured, the Connect Oregon selection process does not align with federal grant announcements and applicants are unable to leverage federal funds when these timelines do not sync. This new process would be separate from the typical Connect Oregon competitive application process but meet the same statutory requirements for selecting projects and administration of grants.

Justification

The temporary filing allows for the agency to accept applications as early as January, when many federal agencies make

announcements for grant funding opportunities. Waiting for permanent rule adoption before taking grant match applications through Connect Oregon would forego these federal funding opportunities. The temporary filing would also serve as a soft launch for this application type and allow for the agency to incorporate lessons learned into the permanent rules that would be filed shortly thereafter.

Department of Transportation, Public Transportation Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Chapter 732

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	1
Amended	1
Repealed	8

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	1
Amended	0
Suspended	0

PTD 2-2024

Filed: 05/09/2024 1:22 PM

732-042-0045

Adopt

Statement of Need

Currently, OAR 732 Division 42 does not allow any modifications to Statewide Transportation Improvement Fund formula plans after the plans are submitted by providers and approved by the Oregon Transportation Commission. Due to the nature of the funding, collected tax revenues fluctuate from quarter to quarter. And circumstances beyond a recipient's control can delay projects or impact timing of project spending, resulting in unspent funds at the end of a plan cycle. These amounts are not always known when a Qualified Entity submits their plan for the next biennium. If these funds are not accounted for in an approved formula plan, agencies cannot modify the plan to add any funding, and these funds cannot be utilized for two full fiscal years, until the next formula plans are submitted.

The temporary rule allows Qualified Entities to add unspent and reserve funding to projects in their approved 2023-25 STIF Formula plan. When the revised Plans are approved by the Commission, Qualified Entities can spend the funds immediately on improvements to public transportation.

Justification

Much-needed public transit funds will sit undeployed for up to two years absent the rule. The temporary rule allows additional funding to be put to use immediately for public transportation services and projects.

Department of Transportation, Delivery and Operations Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Chapter 734

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	8
Amended	16
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Transportation, Driver and Motor Vehicle Services Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Chapter 735

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	5
Amended	27
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	1
Amended	4
Suspended	0

DMV 3-2024 **Filed: 04/15/2024 11:44 AM**

735-063-0260 Amend

735-063-0263 Amend

Statement of Need

This temporary rulemaking amends OAR 735-063-0260 and 735-063-0263 to prevent fraud in applications for Oregon Commercial Driver Licenses (CDLs), which has a significant safety impact.

DMV must immediately amend OAR 735-063-0260 to permit applicants who surrender a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States (Mexico) or a valid, unexpired CDL issued by a Canadian Province or Territory to obtain an Oregon CDL without first obtaining a commercial learner permit and passing a CDL skills test if they meet the requirements provided in OAR 735-063-0263.

Currently, OAR 735-063-0263 permits DMV to issue an Oregon CDL to a person who surrenders a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States (Mexico) or a valid, unexpired CDL issued by a Canadian Province or Territory (Canada) without testing (CDL transfer). Oregon is an anomaly among most other states in the region in that it allows this transfer without testing, while also issuing non-domiciled (limited term) CDLs to citizens of Mexico and Canada. Texas, California, Washington, Arizona, New Mexico and Colorado require Mexican Federal CDL holders to pass CDL tests. Oregon and Idaho do not, although Idaho does not issue non-domiciled CDLs to citizens of Mexico and Canada. Because of this disparity, and the license reciprocity Oregon has with all other US states, Oregon has become a prime target for individuals who are fraudulently claiming Oregon residency to be issued Oregon CDLs and avoid the testing or issuance requirements in their home state.

The reasons other states do not allow CDL transfer without testing when an applicant surrenders a Licencia Federal de Conductor include fraudulent "proof" of domicile in that state, and alleged corruption resulting in the issuance of Mexican CDLs to unqualified individuals. Oregon DMV checks the national database, which includes Canadian and Mexican credentials, to verify a CDL's authenticity. However, such a check would return as "valid" in the case of a credential that is unlawfully issued by the government agency itself.

Prior to September 2023, DMV issued approximately eight CDLs each month using the CDL transfer process described

in OAR 735-063-0263. However, starting in September 2023, DMV noticed a significant increase in the number of applicants with a Licencia Federal de Conductor applying for an Oregon CDL. DMV went from averaging eight CDL transfer transactions per month to 125 per month.

DMV field office staff noticed the significant increase in the number of these transactions and potential issues with the documents that were submitted by the applicants to prove residency or domicile in Oregon. Often these applicants were escorted into a field office as a group, with the escort providing verbal address verification for the entire group. Once DMV identified the increased transaction volume and field office employees' concerns regarding the documentation, DMV experts conducted a comprehensive review of a sampling of recent issuances and found significant indications of fraud. In addition to the fraud and resulting safety concerns, a few DMV field offices have seen the bulk of these applications.

DMV must immediately amend OAR 735-063-0263 to prevent non-residents from obtaining Oregon CDLs and avoiding testing requirements in their home states. DMV proposes to amend the rule to limit who is eligible for a CDL transfer to applicants who have an Employment Based Third Preference (EB-3) visa, are sponsored and employed by an Oregon-based trucking company, provide proof of medical qualification and have valid driving privileges. The EB-3 visa program ensures the individual has the appropriate labor certification and a permanent, full-time job offer. This requirement coupled with the requirement to be employed and sponsored by an Oregon-based trucking company will ensure they have the skills to operate a Commercial Motor Vehicle (CMV) safely on our highways and that they are a resident of or domiciled in Oregon.

As a result of DMV amending OAR 735-062-0263, only applicants who meet the updated requirements can use the CDL transfer process. Applicants with a valid CDL from Mexico or Canada who do not meet the updated requirements provided in OAR 735-063-0263 will need to complete all requirements for a noncommercial driver license and a CDL, including obtaining a commercial learner permit and holding it for a minimum of 14 days, passing all knowledge exams, and all skills tests to obtain an Oregon CDL. This change will preserve confidence in Oregon-issued credentials. DMV anticipates that potential applicants will no longer be able to come to Oregon and commit fraud to evade the testing requirement in their home states.

Under the proposed rule change Oregon will provide CDL transfers for Mexican or Canadian issued CDLs in very limited circumstances and will have confidence in the applicant's ability to safely operate a CMV. In line with federal regulations, a person who holds a CDL issued in Mexico or Canada may continue to legally operate a CMV in the US, including Oregon, using a CDL issued in that country.

Justification

DMV must amend OAR 735-063-0260 and 735-063-0263 to preserve overall safety and the federal highway safety standards in alignment with other jurisdictions. The current misalignment with requirements imposed in other states has provided an incentive for residency/domicile fraud to avoid testing requirements in an applicant's home state. In addition, other states have alleged evidence of corruption in the issuance of Mexican CDLs that raise concerns about the qualifications of these applicants.

DMV's failure to act promptly will result in serious prejudice to the public because Oregon CDLs may be issued to applicants who have not demonstrated that they can safely operate a commercial motor vehicle in Oregon. DMV believes failure to amend OAR 735-063-0260 and 735-063-0263 would result in safety concerns for Oregon and US motorists because of an increased likelihood that the applicant is unable to demonstrate the ability to operate a commercial motor vehicle safely.

DMV 31-2024 **Filed: 11/05/2024 9:16 AM**

735-001-0050 Amend

735-063-0205 Amend

735-063-0315 Adopt

Statement of Need

The Oregon DMV needs to temporarily amend Oregon Administrative Rules (OAR) 735-063-0205 and 735-001-0050, and adopt a new rule, OAR 735-063-0315. DMV is required by 49 CFR Part 382 and ORS 807.166 to adopt rules to implement the federal Drug and Alcohol Clearinghouse (DACH) for operation of commercial motor vehicles. DMV must adopt temporary rules because DMV must comply with the federal law, but will not be able to adopt permanent rules before the deadline for federal compliance.

The DMV started the permanent rulemaking process based on the expectation the Oregon Transportation Commission (OTC) would hold the scheduled November OTC meeting and vote on approving the permanent rules implementing DACH. However, the OTC canceled this meeting due to reasons beyond the DMV's control.

The DMV has already provided the Notice of Proposed Rulemaking to the public in the October 2024 Oregon Bulletin, and no feedback was received. This temporary rule will be in effect for approximately a month, until just after the OTC meeting on December 4, 2024, when we anticipate the OTC approving the permanent rule.

In 2021, the Federal Motor Carrier Safety Administration (FMCSA) finalized regulations to require State Driver's Licensing Agencies (such as DMV) to access and use information obtained through DACH, an FMCSA-administered database containing driver-specific controlled substance and alcohol records. State Driver's Licensing Agencies risk having federal highway funds withheld if they do not act to remove the commercial driving privileges (CDP) from a person who has a drug and alcohol driving prohibition. This temporary rulemaking is in response to the passage of Oregon Laws 2023, chapter 400, section 8, (Oregon Revised Statutes (ORS) 807.166), which requires DMV to adopt rules necessary to administer DACH for Oregon CDP holders.

DACH is a secure online database that gives employers and government agencies real-time access to information about commercial driver license (CDL) holder drug and alcohol violations. DACH contains records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol test results and test refusals. According to FMCSA, the purpose of DACH is to improve highway safety by ensuring the commercial learner permit (CLP) and CDL holders with violations described in 49 CFR Part 382, Subpart B, do not operate a commercial motor vehicle (CMV) until they complete a return-to-duty process and can lawfully resume driving.

Following the federal regulations adopted by FMCSA, DMV will query the DACH database prior to issuance of CDP. If DACH indicates the applicant is prohibited from operating a CMV, DMV will not issue, renew or replace CDP to the applicant. This rulemaking also authorizes DMV to query DACH, or receive information from DACH, while the person holds CDP. When DMV receives information from DACH that a person has a prohibited status, DMV will cancel the person's CDP. When a person is denied issuance or renewal, or their CDP privileges are cancelled because of information from DACH, the person may be issued a Class C noncommercial driver license and may qualify to reinstate their CDP when DACH states that the person is no longer prohibited from operating a CMV.

This rulemaking also adds definitions and provides other processes and procedures for the administration of DACH.

Justification

The DMV must use the emergency rulemaking process under ORS 183.335(5) for the CDL DACH rules for a few

important reasons, primarily because the November Oregon Transportation Commission meeting was canceled. This cancellation requires the DMV to act quickly to follow federal rules and manage DACH effectively. Delays could put the state at risk of not meeting federal requirements, which could endanger federal funding and negatively impact public safety on the roads.

DMV actions are in direct response to federal regulations established by FMCSA that require state licensing agencies to access and utilize the DACH database. By following the rulemaking process, the DMV ensures compliance with federal law, mitigating the risk of losing federal highway funding that is vital for Oregon's transportation infrastructure. Failure to act could lead to serious prejudice against the state in terms of federal support.

The DMV's rulemaking aligns with Oregon Laws 2023, chapter 400, section 8, which mandates the DMV to create rules for administering DACH for Oregon CDL holders. This demonstrates a commitment to fulfilling state legislative mandates and promoting the effective implementation of public safety measures regarding commercial driving.

The DACH is designed to enhance highway safety by preventing commercial drivers with drug or alcohol violations from operating commercial motor vehicles until they complete necessary return-to-duty processes. The DMV's proposed rulemaking establishes procedures for querying DACH and canceling commercial driving privileges (CDP) when violations are identified, directly supporting public safety objectives and reducing risks on the road.

The rulemaking process allows the DMV to define key terms and procedures, providing clarity for both the agency and the public. This is particularly important when addressing sensitive issues like drug and alcohol violations. Clear rules and procedures help ensure that all stakeholders understand the process, which is critical for maintaining public trust and confidence.

The rulemaking establishes a framework for individuals affected by DACH information. By allowing individuals to apply for a Class C noncommercial driver license and detailing the reinstatement process for their CDP, the DMV ensures fairness and due process. This balanced approach provides individuals the opportunity to regain their driving privileges while upholding safety standards.

The cancellation of the November OTC meeting requires DMV to expedite its rulemaking to ensure compliance with federal regulations and effective administration of DACH. This situation highlights the urgency of moving forward with rulemaking; delays could jeopardize the state's compliance with federal requirements, risking federal funding and potentially leading to serious prejudice against the public interest in road safety.

In summary, the Oregon DMV's use of the rulemaking process for the CDL Federal Drug and Alcohol Clearinghouse is essential for legal compliance, effective implementation of state and federal laws, public safety enhancement, clarity in procedures, fairness, and timely action in light of administrative challenges. This comprehensive approach ensures that the DMV can fulfill its obligations and protect the safety of Oregon's roads.

Department of Transportation, Transportation Safety Office

Annual Report Regarding Temporary Rules

(ORS 183.403)

Chapter 737

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	2
Amended	17
Repealed	1

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Transportation, Commerce and Compliance Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Chapter 740

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	11
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Transportation, Rail Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Chapter 741

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	9
Amended	7
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0