# Chapter 480 — Explosives; Flammable Materials; Pressure Vessels

2001 EDITION


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EXPLOSIVES GENERALLY

**480.010 Labels for blasting powder and fuse.** All blasting powder and fuse shipped into this state for use, or manufactured in this state for use in this state, shall have stamped or printed upon the outside of the original package, box, case or wrapper the date of manufacture of the contents.

**480.020 Prohibition against sale of bad powder.** Whenever any blasting powder shows a state of disintegration or decomposition sufficient so that it remains in a soft condition in a temperature of 32 degrees Fahrenheit, or is in a state of crystallization, which is revealed by some portions being in a hard condition and surrounded by other portions in a soft condition, it shall be deemed bad and dangerous powder, and its sale and use is prohibited.

**480.030 Fuse unfit for use and sale; prohibition of use.** Whenever any fuse shows by its appearance to have been overheated, or if it is in a hard and brittle condition, which is seen by breaks and cracks in the wrapper around the outside of the fuse, the same shall be declared unfit for use and sale, and its use is forbidden.

**480.040 Sale, exchange or possession, when unlawful.** No person shall sell or exchange, or offer or expose for sale or exchange, or have in possession for use by employees of the person:

(1) Any blasting powder or fuse which has not been stamped or printed upon as required in ORS 480.010.
(2) Any blasting powder of which the sale and use is prohibited by ORS 480.020.
(3) Any fuse declared to be unfit for use as prohibited by ORS 480.030.

**480.050 Prohibition against intrastate transportation of explosives in passenger vehicle operated by common carrier; exception.** No person shall transport, carry or convey, or have transported, carried or conveyed, any dynamite, gunpowder or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier which car or vehicle is carrying passengers for hire. However, it shall be lawful to transport on any such car or vehicle small arms, ammunition in any quantity, such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each and not exceeding 20 samples at one time in a single car or vehicle. Such samples shall not be

carried in that part of a car or vehicle which is intended for the transportation of passengers for hire. Nothing in this section shall be construed to prevent the transportation of military or naval forces, with their accompanying munitions of war, on passenger equipment, cars or vehicles.

**480.060 Transportation of certain explosives prohibited.** No person shall transport, carry or convey, or have transported, carried or conveyed, liquid nitroglycerine, fulminate in bulk in dry condition, or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier in the transportation of passengers.

**480.070 Fire bombs prohibited; exceptions.** (1) No person shall possess a fire bomb. For the purpose of this section a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having an integral wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illuminating shall be deemed to be a fire bomb for the purpose of this section.

(2) This section shall not prohibit the authorized use or possession of such fire bomb by a member of the Armed Forces of the United States or by any member of a regularly organized public fire or police department. [1967 c.417 §21]

**480.080** [1961 c.722 §1; repealed by 1963 c.384 §4]

**480.085 Requirement for removal of unused explosives from work area.** (1) In addition to any other legal requirements, all users of explosives shall be responsible for the removal of all unused explosives from any area of use after the work for which the explosive was required is completed or when the user is absent for more than 30 days from the area of use, unless the explosives are stored in a manner meeting the safety requirements promulgated by the State Fire Marshal pursuant to ORS 476.030.

(2) As used in this section:

(a) "Explosives" means dynamite, blasting powder, black powder, nitroglycerin, detonators, nitro-jelly, prima-cord and detonating fuse.

(b) "User" means any person using explosives for any purpose whatsoever, and regardless of whether such person is being compensated for such use. [1963 c.384 §1]

**480.090** [1961 c.722 §2; repealed by 1963 c.384 §4]

**480.095 Liability of persons violating ORS 480.085.** Persons violating ORS 480.085 shall be liable to the penalty provided in ORS 480.990 (4) and shall also be liable in civil action for damages to any person suffering injury from handling or otherwise coming in contact with unused explosives which are left in an area of use in violation of ORS 480.085, regardless of any negligence or lack of negligence on the part of the defendant. [1963 c.384 §2]

FIREWORKS

**480.110 Definitions for Oregon Fireworks Law.** For the purposes of ORS 480.110 to 480.165, which sections may be cited as the Oregon Fireworks Law, and unless otherwise required by the context:

(1) "Fireworks" means any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges or toy cannons in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents or any other article of like construction or any article containing any explosive or inflammable compound, or any tablets or other device containing any explosive substances or inflammable compound; but does not include:

(a) Sparklers, toy pistol paper caps, toy pistols, toy canes, toy guns or other devices in which paper caps containing .25 grains or less of explosive compound are used, and when, the rate of burning and the explosive force of the materials in such devices are not greater than an equivalent weight of F.F.F.G. black powder, and when such devices are so constructed that the hand cannot come in contact with the cap when in place for explosion, and the major explosive force is contained or dispelled within the housing or shell of the device, there is no visible flame during discharge, there is no flaming or smoldering of any of the components or parts of the device after discharge, and the device does not produce sufficient heat to readily ignite combustible materials upon which the device may be placed. The sale and use of such devices shall be permitted at all times.

(b) Snakes or similar smoke-producing material containing not more than 100 grains of combustible substances when there is no visible flame during discharge, there is no after smoldering, and the devices do not produce sufficient heat to readily ignite combustible materials upon which the devices may be placed. The sale and use of such devices shall be permitted at all times.

(c) Model rockets and model rocket motors designed for the purpose of propelling recoverable aero models. The sale and use of such devices shall be permitted at all times.

(d) Those items described in ORS 480.127 (4).

(2) "Fire protection district" means any district created under the laws of Oregon or the United States, including rural fire protection districts and any federal, state or private forest patrol areas.

(3) For purposes of this section “sparklers” means materials of a character that will, when ignited, sparkle without throwing or dropping hot residue capable of igniting combustible materials, attached to a wire or other noncombustible central support, with such materials arranged in a cylindrical shape not more than 10 inches in length nor more than one-quarter inch in diameter and which shall not burn more rapidly than one inch in 10 seconds, but not including materials incased within a container of any character. “Explosive substance” or “explosive mixture” as used in this section shall mean any substance so arranged as to burn in less than one second. “Combustible substance” shall mean any substance so arranged as to burn in more than one second. [Amended by 1967 c.417 §23; 1981 c.635 §1; 1983 c.788 §5]

**480.120 Sale, possession and use of fireworks prohibited; exceptions; enforcement.** (1) No person shall sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within Oregon, except as follows:

(a) Sales by manufacturers and wholesalers to customers residing outside this state in accordance with ORS 480.156;

(b) Sales to persons or organizations having obtained a permit from the State Fire Marshal for supervised public display;

(c) Sales to railroads, boats, motor vehicle or other transportation agencies, to be used for signal, warning or illumination purposes in connection with such business;

(d) Sale or use of blank cartridges for licensed shows or theaters or for signal or ceremonial purposes in athletics or sports;

(e) Experimental purposes by a manufacturer of explosives at such places where such experiments are normally conducted;

(f) Sale of blank cartridges for use by the militia or any organization of war veterans or other organization authorized by law to parade in public a color guard armed with firearms;

(g) Sale of shells, cartridges, gunpowder or explosives for use in legally permitted firearms;

(h) Sales of items described in ORS 480.127 to persons who possess the retail sales permit required by ORS 480.127 by a person who holds a manufacturer or wholesaler license issued pursuant to ORS 480.110 to 480.165; or

(i) Sales of items described in ORS 480.127 to individual members of the general public for personal use by taking direct delivery of those items at the time of sale from the holder of a retail sale permit issued pursuant to ORS 480.127.

(2) Law enforcement officers of the state, county or municipality shall enforce the provisions of ORS 480.110 to 480.165. [Amended by 1983 c.788 §1; 1985 c.789 §1]

**480.122 Use for repelling birds or animals allowed; permit.** (1) Notwithstanding the provisions of ORS 480.110 to 480.124 and 480.130 to 480.150, an owner or lessee of property located outside of an incorporated city may purchase, maintain, use and explode fireworks on the owned or leased property for the purpose of scaring away or repelling birds or animals which are or may be injurious or destructive to forest or agricultural products or crops.

(2) Any person described in subsection (1) of this section desiring to use and explode fireworks to scare or repel birds or animals shall first secure a permit from the State Fire Marshal for that purpose. The State Fire Marshal, upon receipt of application for such permit, shall determine if the proposed purchase and use conforms to law and any rules or regulations promulgated by the office of the fire marshal. If the fire marshal finds that the applicant is qualified to use the fireworks and the proposed use is in accordance with the law and rules and regulations, the fire marshal shall issue a permit; otherwise the fire marshal shall refuse to issue it.

(3) Such permit may be revoked by the State Fire Marshal at any time fire marshal verifies there is a violation of the provisions of the permit or the rules and regulations under which it is issued.

(4) The State Fire Marshal is authorized to promulgate rules and regulations relating to the use of fireworks to scare or repel birds or animals which are injurious to or destructive to forest or agricultural crops or products. [1961 c.293 §2; 1987 c.158 §106]

**480.124 Use for control of predatory animals allowed.** Notwithstanding the provisions of ORS 480.110 to 480.165, fireworks may be purchased, maintained, used and exploded by federal or state agencies authorized and required by ORS 610.002 to 610.020 to eradicate and control predatory animals. Such purchase and use shall be in compliance with rules and regulations promulgated by the State Fire Marshal, with the approval of the state agencies authorized and required by ORS 610.002 to 610.020 to eradicate and control predatory animals. [1961 c.293 §3]

**480.127 Sale permit for certain items; when required; fee.** (1) Any person who desires to sell cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers or combination items at retail to individual members of the general public for personal use shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of ORS 480.110 to 480.165 and any rules promulgated pursuant thereto. A fee may be charged for the permit. Subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) The permit required by subsection (1) of this section shall not be valid for more than one year from the date of issuance and shall authorize sales only between midnight June 22 and midnight July 6 of any given calendar year.

(3) Notwithstanding any other provision of law, the State Fire Marshal shall not prescribe limitations on the aggregate

amount of items described in subsection (4) of this section at a sales facility operated by a person who holds the permit referred to in this section. However, such items shall be stored in accordance with such fire codes as the State Fire Marshal by rule may prescribe to insure safe storage of such materials. In prescribing such rules the State Fire Marshal may consider, among other matters, requirements of the United States Department of Transportation regarding the storage of hazardous materials.

(4) As used in this section:

(a) “Combination item” means a device that contains combinations of two or more of the effects described in paragraphs (b) to (g) of this subsection.

(b) “Cone fountain” means a cardboard or heavy paper cone containing not more than 50 grams of pyrotechnic composition. The effect upon ignition is the same as that of a cylindrical fountain.

(c) “Cylindrical fountain” means a cylindrical tube not more than three-fourths inch (19 mm) inside diameter and containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be handheld.

(d) “Flitter sparkler” means a narrow paper tube containing not more than 100 grams of pyrotechnic composition that produces colored sparks upon ignition. The paper at one end of the tube is ignited to make the device function.

(e) “Ground spinner” means a small device similar to a wheel in design and effect and containing not more than 60 grams of pyrotechnic composition. When placed on the ground and ignited, a shower of colored sparks is produced by the rapidly spinning device.

(f) “Illuminating torch” means a cylindrical tube containing not more than 100 grams of pyrotechnic composition. This device may be provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be handheld.

(g) “Wheel” means a pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain not more than six driver units or tubes not exceeding one-half inch (12.5 mm) inside diameter and containing not more than 60 grams of pyrotechnic composition. Upon ignition, the wheel revolves and produces a shower of colored sparks, and sometimes a whistling effect. [1983 c.788 §3; 1991 c.703 §14]

**480.130 Permit required for sale or public display of fireworks; fee.** (1) All persons, municipalities, associations or organizations or groups of individuals desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell items described in ORS 480.127 (4) to persons who possess the permit referred to in ORS 480.127, shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or date of the display. The State Fire Marshal, upon receipt of such application, shall determine if the proposed sale or display will conform to law and any rules promulgated thereunder. If the State Fire Marshal finds that the applicant is qualified to conduct such sale or display and that the proposed sale or display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit; otherwise the State Fire Marshal shall refuse to issue it.

(2) The fee for a permit for the public display of fireworks and each permit for sale of fireworks or items described in ORS 480.127 (4) shall be established by rule by the State Fire Marshal, subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, and subsequently shall be adjusted to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. All fees collected shall be deposited to the credit of the State Fire Marshal Fund.

(3) Sales permits for fireworks or items described in ORS 480.127 (4) shall not be valid for more than one year from date of issue. A public display permit shall not be valid for more than 10 days from date of issuance and shall authorize only one fireworks display during that period. [Amended by 1967 c.417 §24; 1983 c.788 §6; 1985 c.789 §2; 1991 c.703 §15]

**480.140 Fireworks displays to be under supervision of police and fire department chiefs or county court.** (1) Every such display held within the boundaries of any municipality shall be under the supervision of the chiefs of police and fire departments of the municipalities in which the display is to be held and shall be of such character, and so located, discharged or fired as, in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or endanger any person.

(2) Every such display held outside the boundaries of any municipality or fire protection district shall be under the supervision of the county court of the county in which the display is to be held and shall be of such character, and so located, discharged or fired as, in the opinion of the county court or of a county official duly authorized by the county court, after proper inspection, shall not be hazardous to property or endanger any person.

**480.150 Permits for fireworks sales or displays; rules; security.** (1) The State Fire Marshal may adopt reasonable rules for granting permits for supervised public displays or sales of fireworks or items described in ORS 480.127 (4) by municipalities, fair associations, amusement parks, and other persons, organizations or groups of individuals. The governing body of any municipality, or of any county, may require liability insurance, or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other form of indemnity deemed adequate by the municipality, or the county, from any person, in a sum not less than $500, conditioned for payment of all damages which may be caused either to a person or property by reason of the authorized display or sale and arising from any acts of any person or agents, employees or

subcontractors of the person. At the time a permit is revoked, the State Fire Marshal or approving authority may include in the revocation order a provision prohibiting the holder of the revoked permit from applying for or obtaining another such permit, for a period not to exceed three years from the revocation date, if the State Fire Marshal or approving authority finds that the circumstances of the permit holder's failure to comply with applicable sale or display statutes and regulations presented a significant fire hazard or other public safety danger.

(2) The State Fire Marshal or the approving authority of any governmental subdivision may revoke permits for display or sale of fireworks or items described in ORS 480.127 when in the opinion of the State Fire Marshal or the approving authority the sale or display of fireworks or items described in ORS 480.127 (4) is not in compliance with applicable statutes and regulations governing such sale or displays.

(3) Permit fees required by ORS 480.130 shall not be refunded in the event such permits are revoked. [Amended by 1967 c.417 §25; 1983 c.788 §4; 1985 c.789 §3; 1991 c.331 §72; 1997 c.631 §483]

**480.152 Publication of advertisement for sale of unlawful fireworks prohibited.** (1) No person shall publish or cause to be published:

(a) Any advertisement for the sale of fireworks the use or possession of which is declared unlawful by ORS 480.110 to 480.165.

(b) Any advertisement for the sale of items described in ORS 480.127 in any county, municipality or fire protection district that by law or ordinance has declared the sale or use of such items is prohibited.

(2) Subsection (1) of this section does not apply to any advertising medium which accepts such advertising in good faith, without knowledge of the violation of law. [1985 c.789 §7]

**480.154 Manufacturer or wholesaler required to maintain records of sale of fireworks; shipments to show permit number; confiscation.** (1) Each manufacturer or wholesaler of fireworks or items described in ORS 480.127 shall keep a record of all sales showing the name and address of the purchaser, the state of destination, license and permit numbers, the state and date of permit issuance and a list of the type and quantity of fireworks or items sold.

(2) All shipments of fireworks or items described in ORS 480.127 coming into this state must show the appropriate permit number of the addressee on the outside of the package. If the permit number is not so shown, such shipment may be confiscated by a law enforcement officer or fire protection enforcement authority having jurisdiction. [1985 c.789 §8]

**480.156 Sale of fireworks to out-of-state resident without valid license or permit prohibited; seller to ascertain license or permit requirements of other states; seller's records.** (1) It is unlawful for any person to sell fireworks or items described in ORS 480.127, at wholesale to any out-of-state resident who does not possess and present to the seller for inspection at the time of sale a valid license or permit issued in the name of such out-of-state resident, if such license or permit is required to purchase, possess, transport, store, distribute, sell or otherwise deal with or use fireworks or items described in ORS 480.127, by the laws of such other state.

(2) The burden of ascertaining whether the laws of such other state require a license or permit and whether the purchaser possesses such a valid license or permit shall be entirely on the seller. Each seller shall record, in a manner prescribed by the State Fire Marshal, each sale described in this section. The record shall include the identification of type and quantity of fireworks sold, name of purchaser, state of destination, state issuing license or permit and number or other identifying description and date of issue of license or permit. [1985 c.789 §9]

**480.158 Parents of minor liable for costs incurred in suppressing fires caused by use of fireworks by minor; exception.** (1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by a public fire agency in suppressing fires caused by use of fireworks by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.

(2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than $5,000 payable to the same claimant, for one or more acts.

(3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

(4) Nothing in subsections (1) to (3) of this section applies to foster parents. [1985 c.789 §6]

**480.160 Local regulation and effect of state law; local enforcement authority.** (1) Nothing in ORS 480.110 to 480.165, nor in any permit issued thereunder, shall authorize the manufacture, sale, use or discharge of fireworks or items described in ORS 480.127 in any city, county or fire protection district in which such manufacture, sale, use or discharge is otherwise prohibited by law or municipal ordinance; nor shall any city, county or fire protection district authorize the sale or use of any fireworks prohibited by the provisions of ORS 480.110 to 480.165.

(2) For the purposes of enforcing ORS 480.110 to 480.165 in an area exempt under ORS 476.030 (3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that rural fire protection district has the same enforcement authority as the State Fire Marshal.

(3) No person shall deliver or cause to be delivered into any county, municipality or rural fire protection district for the

purpose of sale to individual members of the general public for personal use any items described in ORS 480.127 if the county, municipality or rural fire protection district by law or ordinance has declared that the sale or use of such items is prohibited.

(4) The manufacture, sale, use or discharge of fireworks or items described in ORS 480.127 may be regulated by the governing body of a rural fire protection district, subject to the following conditions:

(a) The regulation must be by ordinance adopted by the governing body of the district, after public notice and hearing, not later than January 1 of any calendar year in which regulation is to be operative.

(b) The regulation shall not be operative within the boundaries of any city that regulates such matters by city ordinance.

(c) The regulation shall not prohibit the manufacture, sale, use or discharge of fireworks or items referred to in ORS 480.127, the manufacture, sale, use or discharge of which is authorized by ORS 480.110 to 480.165.

(d) The regulation may not limit sales to less than five days per calendar year, and must include the five consecutive day period beginning June 30. [Amended by 1983 c.788 §7; 1985 c.789 §4; 1993 c.185 §32]

**480.165 Civil penalty for fireworks law violations.** (1) In addition to any other penalty provided by law, any person who violates any provision of ORS 480.110 to 480.165, or any rule adopted by the State Fire Marshal pursuant thereto, is subject to a civil penalty imposed by the State Fire Marshal in an amount not to exceed $500 per violation. However, an individual member of the general public who possesses fireworks of a retail value less than $50 is not subject to a civil penalty. Each day a violation continues shall be considered a separate offense.

(2) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal Fund.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.090. [1991 c.856 §§2,3]

**480.170** [Repealed by 1987 c.158 §107]

MANUFACTURE, SALE, POSSESSION AND TRANSFER OF EXPLOSIVES

**480.200 Definitions for ORS 480.200 to 480.290.** As used in ORS 480.200 to 480.290 unless the context requires otherwise:

(1) “Certificate of possession” means a certificate issued under ORS 480.235 by the State Fire Marshal to applicants who have met the requirements of ORS 480.200 to 480.290.

(2) “Certificate of registration” means a certificate of registration issued under ORS 480.244 by the State Fire Marshal for an explosives magazine.

(3) “Explosive” means a chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters, but excludes fireworks, as defined in ORS 480.110 (1), black powder, smokeless powder, small arms ammunition, small arms ammunition primers and fertilizer, as defined in ORS 633.311.

(4) “Issuing authority” means the State Fire Marshal or an assistant appointed by the State Fire Marshal under ORS 480.280 (2).

(5) “Magazine” means an approved facility for the storage of explosives.

(6) “Small arms ammunition” means a shotgun, rifle, pistol or revolver cartridge.

(7) “Small arms ammunition primers” means small percussion-sensitive explosive charges encased in a cup and used to ignite propellant powder. [1971 c.518 §1; 1983 c.100 §3; 1999 c.980 §1; 2001 c.914 §26]

**480.205 Application.** ORS 480.200 to 480.290 and 480.990 (6) do not apply to:

(1) The possession of an explosive by a member of the Armed Forces of the United States while on active duty and engaged in the performance of official duties or by a member of a regularly organized public law enforcement agency, public fire department or fire protection agency while engaged in the performance of official duties.

(2) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation. [1971 c.518 §2; 1987 c.158 §108; 1999 c.980 §2]

**480.210 Certificate of possession required; exceptions; display of certificate upon demand; defenses.** (1) A person may not possess an explosive unless:

(a) The person has in immediate possession at all times during the possession of the explosive a valid certificate of possession issued to the person under ORS 480.235; or

(b) The person is licensed by the Bureau of Alcohol, Tobacco and Firearms to be a manufacturer of explosives, a dealer in explosives or the authorized agent of such a manufacturer or dealer.

(2) A person in possession of an explosive shall display a certificate of possession upon the demand of the issuing authority, a magistrate or a law enforcement agency, public fire department or fire protection agency of this state.

(3) It is a defense to a charge under subsection (1) of this section that the person so charged produce in court:

(a) A certificate described in subsection (1)(a) of this section that was valid at the time of the arrest of the person; or

(b) Proof that the person is licensed by the Bureau of Alcohol, Tobacco and Firearms to be a manufacturer of explosives, a dealer in explosives, or the authorized agent of such a manufacturer or dealer. [1971 c.518 §3; 1999 c.980 §3]

**480.215 Transfer of explosives limited.** Possession of an explosive shall not be transferred unless:

(1) The transferee holds a certificate of possession under ORS 480.235 and the certificate is valid at the time of the transfer;

(2) The transferee is licensed by the Bureau of Alcohol, Tobacco and Firearms as a manufacturer of explosives or a dealer in explosives; or

(3) The transferee is a consignee of explosives that have been transported under the jurisdiction of or in conformity with regulations adopted by the United States Department of Transportation. [1971 c.518 §4; 1981 c.635 §2; 1999 c.980 §4; 2001 c.104 §219]

**480.220** [1971 c.518 §5; repealed by 1989 c.982 §7]

**480.225 Eligibility for certificate of possession.** (1) A person is eligible for a certificate of possession under ORS 480.235 if:

(a) The person has not been convicted, or found guilty except for insanity under ORS 161.295, of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A person who has been so convicted is eligible under this subsection following the expiration of seven years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.

(b) The person has not been convicted, or found guilty except for insanity under ORS 161.295, of, and is not under indictment for, any felony.

(c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this subsection.

(d) The person has not been adjudged to be mentally ill or mentally deficient pursuant to ORS chapter 426 and 430.397 to 430.401 or ORS chapter 427. A person who previously has been so adjudged is eligible under this subsection if, at the time of application for such a certificate, the person produces a certified copy of a full discharge from the proper state hospital. The Department of Human Services shall provide the State Fire Marshal with direct electronic access to the department's database of information identifying persons meeting the criteria of this section who were committed or subject to an order under ORS 426.130. The State Fire Marshal and the Department of Human Services shall enter into an agreement describing the access to information under this subsection.

(e) The person is at least 21 years of age.

(f) The person does not use a fictitious name or make a material misrepresentation in application for such a certificate.

(g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense involving a controlled substance as defined in ORS 475.005, other than the offense of driving under the influence of intoxicants.

(B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible under this section following the expiration of seven years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.

(h) The person has been discharged from the jurisdiction of the juvenile court for more than four years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470.

(i) The person is not the subject of a restraining order that alleges the person's possession of explosives presents a credible threat to another person.

(j) The person has passed an examination administered by the State Fire Marshal that assesses the person's knowledge of safety in the transportation and storage of explosives as required under federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall examine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire Marshal may by rule establish and collect an examination fee in an amount necessary to cover the cost of administering the examination.

(k) The person certifies on the application for a certificate of possession that all explosives in the person's possession will be used, stored and transported in accordance with federal, state and local requirements.

(L) The person certifies that all explosives will be possessed, used, stored and transported in accordance with federal, state and local requirements.

(2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has been expunged from a person's record under the laws of this state or equivalent laws of another jurisdiction. [1971 c.518 §6; 1981 c.635 §3; 1983 c.100 §4; 1985 c.362 §1; 1999 c.980 §5]

**480.230 Application for certificate of possession; fee.** A person desiring a certificate of possession shall apply on application forms provided by the office of the State Fire Marshal. The forms shall be completed in full and shall include:

(1) The applicant's legal name, current address and current telephone number;

(2) The applicant's date of birth;

(3) A statement by the applicant that the applicant is eligible for a certificate of possession under ORS 480.225;

(4) The number of the certificate of registration issued under ORS 480.244 for the explosives magazine where the applicant intends to store the explosives;

(5) Any other information that the issuing authority may require to readily identify the applicant;

(6) A certification, signed and dated by the applicant, that the information contained in the application is true; and
(7) A nonrefundable application fee of $50 for a three-year certificate. [1971 c.518 §7; 1983 c.100 §2; 1999 c.980 §6]

**480.235 Waiting period for issuance of certificate of possession; investigation of applicant; term of certificate; assignment or transfer prohibited; records required.** (1) A certificate of possession shall be issued or denied within 45 days after the date of the application or the conclusion of the investigation conducted by the issuing authority pursuant to subsection (2) of this section.

(2) The issuing authority shall conduct an investigation to ensure that the applicant meets the requirements listed in ORS 480.225 and 480.230. The issuing authority shall include fingerprinting and photographic identification in the investigation. The issuing authority may submit the fingerprint cards to the Federal Bureau of Investigation for the purpose of a nationwide criminal records check. Unless the issuing authority finds that the applicant is ineligible under ORS 480.225 or 480.230, the authority shall issue a certificate of possession to the applicant. If the issuing authority finds that the applicant is ineligible under ORS 480.225 or 480.230, the authority shall issue a notification of denial. The denial shall be subject to the provisions of ORS 480.275.

(3) A certificate of possession is valid for three years from the date of issuance unless suspended or revoked pursuant to ORS 480.270.

(4) A certificate of possession may not be assigned or transferred.

(5) The holder of a certificate of possession shall maintain a record of the type and quantity of all explosives possessed during the certificate period. The record shall be made available upon demand of the issuing authority, a magistrate or a law enforcement agency, public fire department or fire protection agency of this state. [1971 c.518 §8; 1981 c.635 §4; 1983 c.100 §5; 1999 c.980 §7]

**480.239 Application for renewal of certificate of possession; testing criteria.** Any applicant for the renewal of an unexpired certificate of possession issued on or after June 1, 2000, shall not be required to retake the safety examination described under ORS 480.225 (1)(j) to obtain the renewal unless the applicant has allowed the certificate to lapse. All other requirements for the issuance of a certificate shall be met before a certificate is renewed. [1999 c.980 §15]

**480.240** [1971 c.518 §11; repealed by 1983 c.100 §1]

**480.244 Storage facilities; certificate of registration; application; inspection; rules and fees; term of registration.** (1) A person may store explosives only in an explosives magazine that has been issued a certificate of registration by the State Fire Marshal.

(2) An application for a certificate of registration shall be submitted on a form approved by the State Fire Marshal and shall contain all information required by rule of the State Fire Marshal, including but not limited to the magazine location and structural information.

(3) The State Fire Marshal may establish by rule and collect application and registration fees in an amount necessary to cover the cost of administering the magazine registration program.

(4) Except as provided in subsection (5) of this section, prior to issuing a certificate of registration, the State Fire Marshal shall inspect the magazine to ensure that the magazine complies with the rules established by the State Fire Marshal under ORS 480.280. The State Fire Marshal shall issue a certificate of registration for the magazine unless the State Fire Marshal finds that the magazine does not comply with the rules and regulations adopted by the State Fire Marshal. Denial of a certificate of registration shall be in accordance with subsection (9) of this section.

(5) The State Fire Marshal may substitute for its own inspection of the magazine as required under subsection (4) of this section an inspection completed by the Bureau of Alcohol, Tobacco, and Firearms. The State Fire Marshal shall establish criteria for when the Bureau of Alcohol, Tobacco, and Firearms inspection may substitute for the State Fire Marshal inspection.

(6) A certificate of registration shall be valid for two years unless suspended or revoked as provided under subsection (9) of this section.

(7) An application for the renewal of a certificate of registration shall be accompanied by any application fee established by the State Fire Marshal. A person who applies to renew a certificate before the person's current certificate expires does not need to retake the safety examination described under ORS 480.225 (1)(j). Each magazine shall be reinspected prior to renewal of the certificate of registration.

(8) If a magazine required to be registered under this section is relocated, the person responsible for the magazine shall notify the State Fire Marshal within 24 hours of the relocation. Upon receiving notification under this subsection, the State Fire Marshal shall notify the fire department or fire protection agency having jurisdiction over the new location.

(9) The State Fire Marshal may deny, suspend or revoke a certificate of registration if the State Fire Marshal finds that the magazine is ineligible for a certificate of registration. If the State Fire Marshal denies, suspends or revokes the certificate of registration, the issuing authority shall issue a notification of denial, suspension or revocation, subject to ORS 480.275.

(10) The issuing authority may revoke the certificate of registration for failure to comply with any provision of ORS 480.200 to 480.290. [1999 c.980 §16]

**480.245** [1971 c.518 §12; repealed by 1983 c.100 §1]

**480.250** [1971 c.518 §13; 1981 c.635 §5; repealed by 1983 c.100 §1]

**480.255** [1971 c.518 §14; repealed by 1999 c.980 §18]

**480.260** [1971 c.518 §§16,17; repealed by 1999 c.980 §18]

**480.265 Report of loss, theft or unlawful removal of explosives required.** The loss, theft or unlawful removal of an explosive from the possession of any person shall be reported by the person within 24 hours to the issuing authority and a law enforcement agency of this state. The report shall include the type and quantity of the explosive. [1971 c.518 §18; 1999 c.980 §8]

**480.270 Revocation or suspension for violations; surrender of certificate of possession.** (1) The issuing authority may suspend or revoke a certificate of possession if the issuing authority finds that the person to whom the certificate of possession was issued is ineligible for the certificate of possession under ORS 480.225 or 480.230 or that the person has been convicted of a violation under ORS 480.990 (6).

(2) A certificate of possession suspended or revoked under subsection (1) of this section shall be void from the date of the suspension or revocation. The person to whom the certificate of possession was issued shall surrender the suspended or revoked certificate of possession to the issuing authority upon the demand of the issuing authority. [1971 c.518 §19; 1987 c.158 §109; 1999 c.980 §9]

**480.275 Hearings on denial, suspension or revocation of certificate.** An applicant who has been denied a certificate of possession or a certificate of registration or a person whose certificate of possession or certificate of registration has been suspended or revoked is entitled to a hearing before the issuing authority under ORS 183.310 to 183.550. [1971 c.518 §20; 1999 c.980 §10]

**480.280 Administration and enforcement by State Fire Marshal; rules; appointment of assistants.** (1) The State Fire Marshal shall administer and enforce ORS 480.200 to 480.290 and 480.990 (6) and may, in accordance with the applicable provisions of ORS chapter 183.310 to 183.550, adopt rules considered to be necessary in carrying out ORS 480.200 to 480.290 and 480.990 (6). The rules adopted shall be such as are reasonably necessary for the protection of the public health, welfare and safety and of persons possessing or storing explosives.

(2) The State Fire Marshal may appoint an individual, designated as assistant by ORS 476.060 (1), or any other individual to act as the assistant of the State Fire Marshal in the administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6). [1971 c.518 §§21,23; 1987 c.158 §110; 1999 c.980 §11]

**480.285** [1971 c.518 §24; repealed by 1973 c.832 §14]

**480.290 Requirements for person driving vehicle transporting explosives.** (1) Each person who drives or has charge of a vehicle transporting explosives must possess a certificate issued pursuant to ORS 480.235.

(2) Except as provided in subsection (3) of this section, the driver of a vehicle transporting any quantity of explosives must attend the vehicle at all times.

(3) The driver of a vehicle transporting explosives may leave the vehicle unattended only at a designated location that has been approved for such parking by the State Fire Marshal or by the local government agency that has responsibility for fire protection.

(4) A vehicle which contains explosives must not be parked within 300 feet of any bridge, tunnel, dwelling, building or place where people work, congregate or assemble except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

(5) As used in this section, a vehicle is “attended” when the person in charge of the vehicle is on the vehicle, awake and not in a sleeper berth, or is within 100 feet of the vehicle and has it within unobstructed field of view.

(6) All vehicles containing explosives shall display appropriate placards conforming to the requirements of the United States Department of Transportation. [1985 c.165 §2; 1999 c.980 §12]

REGULATION OF GASOLINE DISPENSING

**480.310 Definitions for ORS 480.315 to 480.385.** As used in ORS 480.315 to 480.385:

(1) “Class 1 flammable liquids” means liquids with a flash point below 25 degrees Fahrenheit, closed cup tester.

(2) “Nonretail facility” means an unattended facility where Class 1 flammable liquids are dispensed through a card or key activated fuel dispensing device to nonretail customers. [Amended by 1991 c.863 §48]

**480.315 Policy.** The Legislative Assembly declares that, except as provided in ORS 480.345 to 480.385, it is in the public interest to maintain a prohibition on the self-service dispensing of Class 1 flammable liquids at retail. The Legislative

Assembly finds and declares that:

(1) The dispensing of Class 1 flammable liquids by dispensers properly trained in appropriate safety procedures reduces fire hazards directly associated with the dispensing of Class 1 flammable liquids;

(2) Appropriate safety standards often are unenforceable at retail self-service stations in other states because cashiers are often unable to maintain a clear view of and give undivided attention to the dispensing of Class 1 flammable liquids by customers;

(3) Higher liability insurance rates charged to retail self-service stations reflect the dangers posed to customers when they leave their vehicles to dispense Class 1 flammable liquids, such as the increased risk of crime and the increased risk of personal injury resulting from slipping on slick surfaces;

(4) The dangers of crime and slick surfaces described in subsection (3) of this section are enhanced because Oregon's weather is uniquely adverse, causing wet pavement and reduced visibility;

(5) The dangers described in subsection (3) of this section are heightened when the customer is a senior citizen or is disabled, especially if the customer uses a mobility aid, such as a wheelchair, walker, cane or crutches;

(6) Attempts by other states to require the providing of aid to senior citizens and the disabled in the self-service dispensing of Class 1 flammable liquids at retail have failed, and therefore, senior citizens and the disabled must pay the higher costs of full service;

(7) Exposure to toxic fumes represents a health hazard to customers dispensing Class 1 flammable liquids;

(8) The hazard described in subsection (7) of this section is heightened when the customer is pregnant;

(9) The exposure to Class 1 flammable liquids through dispensing should, in general, be limited to as few individuals as possible, such as gasoline station owners and their employees or other trained and certified dispensers;

(10) The typical practice of charging significantly higher prices for full-service fuel dispensing in states where self-service is permitted at retail:

(a) Discriminates against customers with lower incomes, who are under greater economic pressure to subject themselves to the inconvenience and hazards of self-service;

(b) Discriminates against customers who are elderly or handicapped who are unable to serve themselves and so must pay the significantly higher prices; and

(c) Increases self-service dispensing and thereby decreases maintenance checks by attendants, which results in neglect of maintenance, endangering both the customer and other motorists and resulting in unnecessary and costly repairs;

(11) The increased use of self-service at retail in other states has contributed to diminishing the availability of automotive repair facilities at gasoline stations;

(12) Self-service dispensing at retail in other states does not provide a sustained reduction in fuel prices charged to customers;

(13) A general prohibition of self-service dispensing of Class 1 flammable liquids by the general public promotes public welfare by providing increased safety and convenience without causing economic harm to the public in general;

(14) Self-service dispensing at retail contributes to unemployment, particularly among young people;

(15) Self-service dispensing at retail presents a health hazard and unreasonable discomfort to the handicapped, to elderly persons, small children and those susceptible to respiratory diseases;

(16) The federal Americans with Disabilities Act, Public Law 101-336, requires that equal access be provided to disabled persons at retail gasoline stations; and

(17) Small children left unattended when customers leave to make payment at retail self-service stations creates a dangerous situation. [1991 c.863 §49a; 1999 c.59 §160]

**480.320 Use of coin-operated pumps and dispensing of gasoline by self-service declared hazardous.** The installation and use of coin-operated dispensing devices for Class 1 flammable liquids and the dispensing of Class 1 flammable liquids by self-service, are declared hazardous. [Amended by 1959 c.73 §1]

**480.330 Operation of gasoline dispensing device by public prohibited; aviation fuel exception.** An owner, operator or employee of a filling station, service station, garage or other dispensary where Class 1 flammable liquids, except aviation fuels, are dispensed at retail may not permit any person other than the owner, operator or employee to use or manipulate any pump, hose, pipe or other device for dispensing the liquids into the fuel tank of a motor vehicle or other retail container. [Amended by 2001 c.285 §1]

**480.340 Coin-operated or self-service gasoline pumps prohibited; automatic shut-off devices regulated; aviation fuel exception.** An owner, operator or employee of a filling station, service station, garage or other dispensary where Class 1 flammable liquids, except aviation fuels, are dispensed at retail may not install or use or permit the use of:

(1) A coin-operated or self-service dispensing device for the liquids.

(2) A device that permits the dispensing of the liquids when the hand of the operator of the discharge nozzle is removed from the control lever, except one equipped with an automatic nozzle of a type that has been approved by the State Fire Marshal and that has a latch-open device as an integral part of the assembly, capable of shutting off the flow of the liquids reliably when the tank is filled or when the nozzle falls or slips from the filling neck of the tank. A person may not use an automatic nozzle to dispense the liquids unless the owner, operator or employee is in the immediate vicinity of the tank being

filled. [Amended by 1959 c.73 §2; 2001 c.285 §2]

**480.345 Conditions for operation of dispensing device by certain nonretail customers.** Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dispensing facility may permit nonretail customers other than the owner, operator or employee to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following conditions:

(1) The owner or operator shall hold a current nonretail facility license issued by the State Fire Marshal under ORS 480.350;

(2) After April 1, 1992, a nonretail customer shall purchase at least 900 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 900 gallons annually, file documentation that:

(a) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(b) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(3) The nonretail customer shall provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable liquids shall be employed by a business, government agency or nonprofit or charitable organization and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by the business, government agency or nonprofit or charitable organization;

(5) The nonretail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids shall have satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(6) The owner or operator shall enter into a written agreement with nonretail customers permitted under this section to dispense fuel at the nonretail facility. Except as otherwise provided in ORS 480.355, the agreement shall at a minimum:

(a) Certify that the nonretail customer will purchase at least 900 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 900 gallons annually, file documentation that:

(A) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(B) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(b) Provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(c) Certify that the nonretail customer is employed by a business, government agency or nonprofit or charitable organization and that the nonretail customer shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by the business, government agency or nonprofit or charitable organization;

(d) Certify that the nonretail customer has satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(e) Require the nonretail customer to submit a sworn statement, as defined in ORS 162.055, that the information supplied in the agreement is true and correct. [1991 c.863 §50; 1993 c.469 §7; 2001 c.328 §1]

**Note:** The amendments to 480.345 by section 2, chapter 328, Oregon Laws 2001, become operative 31 days after entry of a final judgment that invalidates the amendments to 480.345 by section 1, chapter 328, Oregon Laws 2001. See section 3, chapter 328, Oregon Laws 2001. 480.345, as amended by section 2, chapter 328, Oregon Laws 2001, is set forth for the user's convenience.

**480.345.** Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dispensing facility may permit nonretail customers other than the owner, operator or employee to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following conditions:

(1) The owner or operator shall hold a current nonretail facility license issued by the State Fire Marshal under ORS 480.350;

(2) After April 1, 1992, a nonretail customer shall purchase at least 2,400 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 2,400 gallons annually, file documentation that:

(a) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(b) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(3) The nonretail customer shall provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable liquids shall be employed by a business, government agency or nonprofit or charitable organization and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned and used by the business, government agency or nonprofit or charitable organization;

(5) The nonretail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids shall have satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(6) The owner or operator shall enter into a written agreement with nonretail customers permitted under this section to dispense fuel at the nonretail facility. Except as otherwise provided in ORS 480.355, the agreement shall at a minimum:

(a) Certify that the nonretail customer will purchase at least 2,400 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 2,400 gallons annually, file documentation that:

(A) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(B) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(b) Provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(c) Certify that the nonretail customer is employed by a business, government agency or nonprofit or charitable organization and that the nonretail customer shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned and used by the business, government agency or nonprofit or charitable organization;

(d) Certify that the nonretail customer has satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(e) Require the nonretail customer to submit a sworn statement, as defined in ORS 162.055, that the information supplied in the agreement is true and correct.

**480.347 Use of gasoline dispensing device by emergency service worker; conditions.** Notwithstanding ORS 480.330 and 480.340, during an emergency as defined in ORS 401.025, the owner, operator or employee of a dispensing facility may permit nonretail customers, other than the owner, operator or employee, to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a vehicle or other container if:

(1) The owner or operator holds a current nonretail facility license issued by the State Fire Marshal under ORS 480.350;

(2) The fuel is dispensed to an emergency service agency as defined in ORS 401.025 or to an entity authorized by an emergency service agency to provide services during an emergency;

(3) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable liquids is an emergency service worker as defined in ORS 401.025 or an owner or employee of the entity authorized by the emergency service agency to provide services during an emergency and dispenses Class 1 flammable liquids only into the fuel tank of a vehicle or other container owned and used by the emergency service agency or the entity authorized by that agency to provide services during an emergency; and

(4) The nonretail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids satisfies safety training requirements in compliance with rules of the State Fire Marshal. [1999 c.456 §2]

**480.349 Use of gasoline dispensing device by motorcycle operator.** (1) As used in this section, "motorcycle" has the meaning given that term in ORS 801.365.

(2) Notwithstanding ORS 480.330 and 480.340:

(a) Upon the request of an operator of a motorcycle, the owner, operator or employee of a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail shall set the fuel dispensing device and hand the discharge nozzle to the operator of the motorcycle.

(b) An operator of a motorcycle who is handed a discharge nozzle under paragraph (a) of this subsection:

(A) May dispense Class 1 flammable liquids into the operator's motorcycle.

(B) Shall, after dispensing the liquids, return the discharge nozzle to the owner, operator or employee.

(3) The owner, operator or employee who is handed the discharge nozzle shall return the nozzle to the pump or take any other actions necessary to ensure safe completion of the fueling operation. [2001 c.344 §2]

**Note:** 480.349 was added to and made a part of 480.315 to 480.385 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**480.350 License required for operation of nonretail facility; application; fee; term; renewal; disposition of fees.** (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a license issued under this section.

(2) The State Fire Marshal shall issue a nonretail facility license to a person if the person submits an application to the State Fire Marshal on a form approved by the State Fire Marshal for each nonretail facility and the application includes:

(a) A statement that the applicant will comply with the requirements of ORS 480.345;

(b) A copy of the form that will be used by the applicant as the agreement required under ORS 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail facility;

(c) A sworn statement, as defined in ORS 162.055, that information supplied in the application is true and correct; and

(d) An application fee of $250.

(3) The applicant for a nonretail facility license shall bear the burden of proof that the requirements of this section and of any rules of the State Fire Marshal adopted to implement this section are satisfied.

(4) In addition to any license or renewal fees, a licensee shall pay an annual fee of $5 for each nonretail customer that enters into a written agreement with the owner or operator of the nonretail facility under ORS 480.345.

(5) A license issued under this section shall be valid for a period of one year from the date of issuance.

(6) A license may be renewed upon payment to the State Fire Marshal of an annual license renewal fee of $250.

(7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund. [1991 c.863 §51; 1995 c.79 §292]

**480.355 Conditional nonretail facility license; qualifications; application; review of denial.** (1) Notwithstanding ORS 480.345, upon application from the owner or operator of a nonretail facility, the State Fire Marshal may issue a conditional use license under which the nonretail facility may permit persons who are not qualified as nonretail customers under ORS 480.345 (2) to (4) to dispense Class 1 flammable liquids at a nonretail facility.

(2) In issuing a conditional use license, the State Fire Marshal may waive the nonretail customer requirements of ORS 480.345 (2) to (4), but may not waive safety training requirements contained in ORS 480.345.

(3) The State Fire Marshal may issue a conditional use license under this section if the State Fire Marshal determines that:

(a) There is no facility where Class 1 flammable liquids are dispensed by attendants at retail within seven miles of the nonretail facility, and other undue hardship conditions exist, as may be determined by the State Fire Marshal by rule; or

(b) The nonretail facility exists on property used as a private, nonprofit golf club not open to the general public and the private, nonprofit golf club members who are not qualified as nonretail customers use the nonretail facility only for the fueling of vehicles that are used exclusively on the property of the private, nonprofit golf club and are not designed for highway use.

(4) The State Fire Marshal shall consider comments of local residents or local government bodies to determine if undue hardship exists.

(5) The provisions of ORS 480.345 and 480.350 apply to a license application made under this section, except those provisions whose applicability is waived by the State Fire Marshal under this section.

(6) The applicant for a conditional use license shall bear the burden of proof that the requirements of this section and of any rules of the State Fire Marshal adopted pursuant to this section are satisfied.

(7) The State Fire Marshal shall investigate any application made under this section and hold at least one public hearing to determine if the conditional use license should be issued. The State Fire Marshal may waive the requirement for a hearing if the application for a conditional use license is made by a private, nonprofit golf club.

(8) Any person who makes application as provided for in this section, and whose application is denied, shall be entitled to a hearing upon request. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(9) Judicial review of an order made after a hearing under subsection (7) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases. [1991 c.863 §56; 1995 s.s. c.3 §35; 1996 c.11 §2; 1997 c.463 §1; 1999 c.95 §1; 2001 c.104 §220; 2001 c.285 §3]

**480.360 Exemption from gallonage requirements of ORS 480.345.** Any person who was a customer of a facility that is issued a license under ORS 480.350 and was a customer on and since June 30, 1991, and who qualifies as a nonretail customer under the provisions of ORS 480.345, shall be exempt from the gallonage requirements set forth in ORS 480.345 (2). [1991 c.863 §50a]

**480.365 Suspension, revocation, refusal to issue or renew nonretail facility license; procedure.** In accordance with ORS 183.310 to 183.550, the State Fire Marshal may revoke or suspend or may refuse to issue or renew a nonretail facility license if the State Fire Marshal finds that an applicant or a person to whom the license was issued:

(1) Falsified the application for the license; or

(2) Failed to comply with any provision of ORS 480.315 to 480.385 or any applicable rule adopted by the State Fire Marshal. [1991 c.863 §52]

**480.370 Subpoenas for investigation; effect of failure to comply.** (1) The State Fire Marshal may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with any provision of ORS 480.315 to 480.385 or any rule adopted by the State Fire Marshal.

(2) If a person fails to comply with any subpoena issued under subsection (1) of this section, a judge of the circuit court of any county, on application of the State Fire Marshal, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court. [1991 c.863 §54]

**480.375 Safety inspection of facilities by State Fire Marshal; audit; investigation of law violations.** (1) The State Fire Marshal shall conduct an annual safety inspection at all nonretail and dual operations facilities dispensing Class 1 flammable liquids to determine if the facility is operating in compliance with the provisions of ORS 480.315 to 480.385 or of any applicable rule adopted by the State Fire Marshal.

(2) The State Fire Marshal shall conduct annual audits of at least five percent of all nonretail accounts to determine if nonretail facilities are in compliance with the provisions of ORS 480.315 to 480.385 and any applicable rule adopted by the State Fire Marshal.

(3) The State Fire Marshal shall have the same authority to enter into all buildings and upon all dispensing facilities for the purpose of inspection as is specified in ORS chapter 476 relating to inspection of fire hazards.

(4) Upon receiving a complaint, or upon the State Fire Marshal's own motion, the State Fire Marshal shall investigate

whether a violation of any provision of ORS 480.315 to 480.385 or of any applicable rule of the State Fire Marshal has occurred. [1991 c.863 §53]

**480.380 Rules.** In accordance with applicable provisions of ORS 183.310 to 183.550, the State Fire Marshal, in consultation with the Department of Environmental Quality, shall adopt rules:

(1) Necessary for the administration of ORS 480.315 to 480.385;

(2) Establishing standards for the design, construction, location, installation and operation of retail, automated or dual operations equipment for storing, handling and dispensing Class 1 flammable liquids at any dispensing facility; and

(3) Establishing standards for public and environmental safety in the operation of nonretail facilities and establishing safety training requirements for nonretail customers authorized to dispense Class 1 flammable liquids at nonretail facilities. [1991 c.863 §57]

**480.385 Civil penalty for gasoline dispensing law violations.** (1) The State Fire Marshal may impose a civil penalty not to exceed $500 for each violation of any provision of ORS 480.315 to 480.385 or of any applicable rule adopted by the State Fire Marshal.

(2) A civil penalty imposed under this section shall become due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A person against whom a civil penalty is to be imposed shall be served with a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.

(3) The person to whom the notice is addressed shall have 20 days from the date of service of the notice provided for in subsection (2) of this section in which to make written application for a hearing. If no application for a hearing is made, the State Fire Marshal may make a final order imposing the penalty.

(4) Any person who makes application as provided for in subsection (3) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(5) Judicial review of an order made after a hearing under subsection (4) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

(6) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(7) All amounts recovered under this section shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund. [1991 c.863 §55]

**480.390 Nonretail facilities at airports.** (1) As used in this section, “nonretail facility” has the meaning given that term in ORS 480.310.

(2) A person may not construct or install a nonretail facility that dispenses aviation fuels at an airport unless the Director of the Oregon Department of Aviation permits the facility.

(3) The director may not permit the construction or installation of a nonretail facility unless the airport owner permits the facility.

(4) The director shall by rule establish a procedure to give permission for nonretail facilities that dispense aviation fuels at airports. [2001 c.285 §4]

**Note:** 480.390 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 480 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

LIQUID PETROLEUM GAS

**480.410 Definition.** As used in ORS 480.420 to 480.460, “LP gas” or “liquid petroleum gas” means any liquid composed predominately of any of the following hydrocarbons or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane) and butylenes. [Amended by 1957 c.712 §1]

**480.420 Liquid petroleum gas rules and regulations; conformity with standards of National Fire Protection Association.** (1) The State Fire Marshal shall make, promulgate and enforce regulations establishing minimum general standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck or tank trailer and utilizing liquid petroleum gases and specifying the degree of odorization of the gases, and shall establish standards and rules for the issuance, suspension and revocation of licenses and permits provided in ORS 480.410 to 480.460.

(2) The regulations required shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and of persons using or handling such materials, and shall be in substantial conformity with the generally accepted standards of safety relating to the same matter. Regulations in substantial conformity with the published standards of the National Fire Protection Association pamphlet No. 58 and pamphlet No. 59 for the design, installation and construction of

containers and equipment thereto pertaining, for the storage and handling of liquefied petroleum gases, including utility gas plants, as recommended by the National Fire Protection Association, and the published standards of the National Fire Protection Association pamphlet No. 54 for liquefied petroleum gas piping and appliance installations in buildings, shall be deemed to be in substantial conformity with the generally accepted standards of safety relating to the same subject matter. [Amended by 1957 c.712 §2; 1961 c.477 §1; 1967 c.417 §26]

**480.430 Liquefied petroleum gas containers; certain uses prohibited.** No person other than the owner of the container or receptacle and those authorized by the owner so to do, shall sell, fill, refill, deliver or permit to be delivered or used in any manner any liquefied petroleum gas container or receptacle for any gas or compound or for any other purpose. [Amended by 1965 c.602 §25]

**480.432 Licenses required; exceptions.** (1) A person shall not engage in or work at the business of installing, extending, altering or repairing any LP gas appliance or piping, vent or flue connection pertaining to or in connection with LP gas installations within the state, either as employer or individual, unless such person has received an LP gas installation license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(2) A person shall not do any LP gas fitting or gas venting work, install, repair or remodel any piping or venting nor any installation, repair service, connection or disconnection of any LP gas appliance which is subject to inspection under ORS 480.410 to 480.460 unless the person has received an LP gas fitter license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(3) A person shall not operate any LP gas delivery equipment installed on a motorized vehicle unless the person has received an LP gas truck equipment license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(4) Any person under the terms of this section who is required to have an LP gas fitter or LP gas truck equipment license is also required to have an LP gas installation license, unless the person is an employee of an employer who has an LP gas installation license as provided by this section.

(5) A person who holds a valid journeyman plumber's certificate under ORS 693.060 or who is in an approved journeyman plumber apprenticeship established under ORS chapter 660 is exempt from the licensing requirements of subsections (1) and (2) of this section, except that the apprentice or journeyman plumber may not install an LP gas tank or make any connection to an LP gas tank unless the apprentice or journeyman plumber is licensed as required under this section.

(6) The provisions of this section shall not apply to LP gas installations in a manufactured dwelling or recreational vehicle performed during the construction of the manufactured dwelling or recreational vehicle, or the alteration or repair of an LP gas installation in a manufactured dwelling or recreational vehicle made pursuant to the manufacturer's warranty. [1957 c.712 §4; 1967 c.417 §27; 1999 c.558 §4; 1999 c.852 §1; 2001 c.104 §221]

**480.434 Examination of applicants for licenses; issuance of license.** (1) The State Fire Marshal shall examine applicants for licenses required under ORS 480.410 to 480.460 as to their knowledge of LP gas, its properties, related equipment and applicable safety regulations.

(2) LP gas fitters and drivers shall be examined and a license obtained after not more than a 60-day probationary period of on-the-job training under licensed supervision.

(3) The State Fire Marshal shall examine applicants for LP gas installation licenses as to their knowledge of the applicable code and statutory responsibilities. The successful examination of one member of a firm or executive of a corporation at each business or dealership location fulfills the examination requirement on behalf of the firm or corporation. Each LP gas business or dealership location must obtain an LP gas installation license.

(4) If satisfied that the applicant has the requisite knowledge, the State Fire Marshal shall issue the appropriate license or licenses to the applicant, as provided in ORS 480.410 to 480.460. [1957 c.712 §5; 1967 c.417 §28; 1987 c.346 §1]

**480.435 Licenses; revocation; suspension; refusal to issue or renew.** In accordance with ORS 183.310 to 183.550, the State Fire Marshal may revoke or suspend or may refuse to issue or renew a license required pursuant to ORS 480.410 to 480.460, or may place the licensee in a probationary status subject to specified conditions, if the State Fire Marshal finds that the person to whom the license was issued:

(1) Deliberately falsified the application form for the LP gas license or examination;

(2) Has committed a violation of ORS 162.305;

(3) Failed to comply with any provision of ORS 480.410 to 480.460, or any rule adopted pursuant thereto; or

(4) Failed to maintain the status required under ORS 480.434. [1987 c.346 §3]

**480.436 License fees; term of licenses; delinquency penalty.** (1) The annual fee for the LP gas installation license shall be $75, except when the LP gas operation is conducted by business firms located outside the state, in which case the annual fee shall be $220.

(2) The biennial fee for an LP gas fitter license or an LP gas truck equipment license shall be $15.

(3) All licenses shall be renewed on or before a date specified by the State Fire Marshal. Unless revoked or suspended by the State Fire Marshal for failure to comply with the provisions of ORS 480.410 to 480.460, an LP gas installation license shall continue in force for one year from the date of issuance and shall not be transferable. An LP gas fitter license or an LP gas

truck equipment license shall continue in force for two years from the date of issuance and shall not be transferable. The State Fire Marshal, by rule, may establish a system for staggered license expiration dates, which includes prorated fees for periods of less than one year for an LP gas installation license and less than two years for an LP gas fitter license or an LP gas truck equipment license.

(4) If the fees provided for in this section are due and payable and are not paid within 30 days after service of written notice by the State Fire Marshal therefor, the fees shall be delinquent and a penalty equal to 10 percent of the amount of the license fee or $15, whichever is greater, shall be imposed for such delinquency. [1957 c.712 §6; 1967 c.417 §29; 1973 c.832 §15; 1993 c.115 §1; 1995 c.79 §293; 1999 c.558 §1]

**480.440 Inspection of certain storage tanks.** An installation of storage tanks located at dealers' plants shall be inspected annually. An installation of tanks used for delivery purposes may be inspected annually, at the discretion of the State Fire Marshal. The State Fire Marshal shall collect a fee of $57.50 for each such plant inspection and $24 for each such delivery unit inspection. [Amended by 1953 c.228 §4; 1957 c.712 §7; 1967 c.417 §30; 1973 c.832 §16; 1999 c.558 §2]

**480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.** (1) The State Fire Marshal shall be notified prior to the last day of each month by the installer of all new installations made during the preceding month of containers or receptacles for liquid petroleum gas, including installations for private homes and apartments. The installer shall certify on a form provided by the State Fire Marshal that all such new installations are duly and properly reported. The State Fire Marshal may require that the notification include the location and description of the installation and the name of the user. All fees due and payable shall accompany the notification. The replacement of empty containers or receptacles with other containers constructed in accordance with Interstate Commerce Commission specifications shall not be considered such new installation or change in the original installation as to require notification to the State Fire Marshal or necessitate further inspection of the installation. The State Fire Marshal shall collect from the installer an installation fee of $24 for each tank installed or for all tanks at the installation if the total combined capacity is 200 gallons or less. The State Fire Marshal or deputies of the fire marshal or assistants shall inspect a reasonable number of such installations and maintain a record of these inspections in the office of the State Fire Marshal.

(2) After the initial installation, liquid petroleum gas containers may be inspected once every 10 years except when changes have been made in the original installation. The State Fire Marshal shall be notified of such changes in the same manner provided in this section for new installations. The State Fire Marshal shall collect from the owner a fee of $24 for the inspection of each container. The manner of inspection, requirement of corrections, satisfaction of such requirements and collection of fees due and payable shall be in conformity with the provisions of ORS 480.410 to 480.460 for new installations. LP gas installation licensees shall furnish a list of the locations of 10-year old installations which they service upon request of the State Fire Marshal.

(3) When, upon inspection of any tank, the new installation does not comply with the requirements of the State Fire Marshal, the State Fire Marshal shall instruct the installer as to what corrections are necessary for compliance with the State Fire Marshal's requirements. The installer of the new installation shall, within the time set by the State Fire Marshal which in no case shall be more than 60 days after notification, notify the State Fire Marshal that the new installation complies with the requirements of the fire marshal. If the installer so fails to notify the State Fire Marshal, or the State Fire Marshal has reason to believe that the corrections have not been made, the State Fire Marshal shall reinspect the new installation and shall collect from the installer an additional fee of $24. The installer shall not be held responsible for the payment of such additional fee resulting from actions of the user which require correction to achieve compliance with the requirements of the State Fire Marshal. In such a case the user shall pay the additional fee.

(4) No person, after notice from the State Fire Marshal, shall fail to correct any improper installation within the time set by the State Fire Marshal which in no case shall be more than 60 days after receiving such notice.

(5) If the fees provided for in this section are due and payable and are not paid within 30 days after service of written notice by the State Fire Marshal therefor, or if the installer fails to notify the State Fire Marshal by the last day of the month succeeding the month a new installation is made or a change is made requiring an inspection, the fees shall be delinquent and a penalty equal to 10 percent of the amount of the fees or $15, whichever is greater, shall be imposed for such delinquency. All fees and penalties shall be collected by the State Fire Marshal in the name of the State of Oregon in the same manner that other debts are collected.

(6) The provisions of this section shall not apply to liquid petroleum gas installations made entirely within the jurisdiction of a governmental subdivision granted the exemption provided by ORS 476.030 (3) and when written evidence of the licensing of such installation by the approved authority is submitted to the State Fire Marshal. The provisions of this section shall not apply to LP gas installations when made in manufactured dwellings or recreational vehicles that are constructed or altered in accordance with applicable rules of the Department of Consumer and Business Services. [Amended by 1953 c.228 §4; 1957 c.712 §8; part renumbered 480.460; 1967 c.417 §31; 1973 c.832 §17; 1987 c.346 §4; 1987 c.414 §159a; 1993 c.18 §124; 1993 c.185 §33; 1995 c.79 §294; 1995 c.305 §1; 1999 c.558 §3]

**480.460 Disposition of fees.** All fees received by the State Fire Marshal under ORS 480.200 to 480.290 and 480.410 to 480.460 shall be paid by the fire marshal to the State Treasurer monthly and shall constitute and be an appropriation available for the payment of salaries and expenses of deputies and clerical and other assistants of the State Fire Marshal. [Formerly part

of 480.450; 1973 c.832 §18]

BOILERS AND PRESSURE VESSELS

**480.510 Short title.** ORS 480.510 to 480.670 may be cited as the Boiler and Pressure Vessel Law. [1961 c.485 §1; 1969 c.582 §1; 1983 c.676 §2]

**480.515 Definitions for ORS 480.510 to 480.670.** As used in ORS 480.510 to 480.670, unless the context requires otherwise:

(1) “Board” means the Board of Boiler Rules created under ORS 480.535.

(2) “Boiler” or “boilers” means:

(a) A closed vessel or vessels intended for the heating or vaporizing of liquids to be used externally to such vessel or vessels by the application of heat from combustible fuels, electricity or nuclear energy;

(b) Related appurtenances including but not limited to pressure piping directly connected and related to the safe operation of a boiler; and

(c) Pressure piping consisting of boiler or nonboiler external piping connected to a boiler, but not potable water nonboiler external piping.

(3) “Boiler external piping” has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.

(4) “Certificate of competency” means a certificate issued under the provisions of ORS 480.565 (3).

(5) “Department” means the Department of Consumer and Business Services.

(6) “Director” means the Director of the Department of Consumer and Business Services.

(7) “Minimum safety standards” means the rules, regulations, formulae, definitions and interpretations for the safe construction, installation, operation and repair of boilers and pressure vessels either adopted by ORS 480.510 to 480.670 or adopted by the board, under ORS 480.510 to 480.670.

(8) “Nonboiler external piping” has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.

(9) “Permit” means a card issued by the department authorizing the operation of a vessel but the permit does not signify that the vessel has been inspected or meets minimum safety standards until an actual inspection has been made and no deviation from the minimum safety standards exists.

(10) “Pressure vessel” means containers for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof.

(11) “Related appurtenances” means any equipment instrumental to the safe operation of a boiler or pressure vessel.

(12) “Shop inspection” means the inspection and testing, to determine the meeting of minimum safety standards, of boilers and pressure vessels being manufactured, altered, repaired or installed or in the process of manufacture, alteration, repair or installation in the shop or on the job site. [1961 c.485 §3; 1969 c.582 §2; 1971 c.753 §58; 1973 c.830 §1; 1983 c.676 §3; 1987 c.414 §35; 1991 c.518 §2; 1993 c.744 §142]

**480.520 Purpose of ORS 480.510 to 480.670.** The purpose of ORS 480.510 to 480.670 is to protect the safety of the people of Oregon and to protect property situated in Oregon from the hazard of fires and explosions caused by boilers and pressure vessels. To accomplish this purpose the Legislative Assembly intends by ORS 480.510 to 480.670 to provide a system:

(1) For determining where and by whom boilers and pressure vessels are being constructed, installed, repaired, used and operated.

(2) To assure that only qualified persons do welding on boilers and on pressure vessels.

(3) To assure that boilers and pressure vessels are manufactured, installed, repaired, operated, inspected and maintained so as to meet the minimum safety standards formulated and promulgated by the Board of Boiler Rules.

(4) For the administration and enforcement of ORS 480.510 to 480.670 by the Department of Consumer and Business Services and the board.

(5) To defray the cost of administration and the cost of enforcing ORS 480.510 to 480.670 by establishing fees to be charged for the issuing of permits, for giving welding examinations, and for the making of inspections. [1961 c.485 §2; 1969 c.583 §3; 1983 c.676 §4]

**480.525 Exempt vessels.** (1) ORS 480.510 to 480.670 do not apply to:

(a) Boilers and pressure vessels under federal safety regulations or control.

(b) Domestic water heaters designed for heating potable water, equipped with an approved pressure-relieving device, containing only water and that do not exceed:

(A) Capacity of 120 gallons;

(B) Water temperature of 210 degrees Fahrenheit;

(C) Pressure of 150 pounds per square inch gauge pressure; or

(D) Heat input of 200,000 BTU per hour.

(c) Pressure vessels containing liquified petroleum gas, and which are under the jurisdiction of the State Fire Marshal;

except that the construction and repair of such vessels shall be in compliance with ORS 480.510 to 480.670 and shall be under the jurisdiction of the Board of Boiler Rules.

(d) Air tanks used in the operation of brakes on self-propelled vehicles and trailers, which vehicles or trailers are used for transporting freight or passengers.

(e) Medical sterilizers that do not exceed one and one-half cubic feet in volume.

(f) Pressure vessels that do not exceed one and one-half cubic feet in volume and which are not operated at gauge pressure of more than 150 pounds per square inch, equipped with a relief valve, approved under the American Society of Mechanical Engineers code adopted by the board, set at a maximum pressure of 150 pounds per square inch or less and located in a place of public assembly.

(g) Pressure vessels that do not exceed five cubic feet in volume and which are not operated at gauge pressure of more than 150 pounds per square inch, equipped with a relief valve, approved under the American Society of Mechanical Engineers code adopted by the board and set at a maximum pressure of 150 pounds per square inch, or less.

(2) The following boilers and pressure vessels are exempt from ORS 480.510 to 480.670, except as to all provisions relating to construction or installation and the inspection and fees in connection therewith:

(a) Boilers which are not operated at gauge pressures of more than 15 pounds per square inch and which are located on farms and used solely for agricultural purposes except when used in connection with a greenhouse.

(b) Air tanks located on farms and used solely for agricultural purposes.

(c) Any boiler or pressure vessel which is used in a single private residence shall have an installation inspection and be provided with a permit to operate but shall be exempt from subsequent inspection required in ORS 480.560 (1)(a) to (d).

(d) Pressure vessels being operated at gauge pressures of less than 15 pounds per square inch and which are equipped with a pressure relief device set to open at a pressure no greater than the pressure vessel's maximum allowed working pressure, but in no case shall the gauge pressure exceed 15 pounds per square inch.

(3) If the board, upon presentation of satisfactory evidence, determines that jeopardy to health and safety is evident in any vessel or class of vessels subject to subsection (1)(f) of this section, the board may require that the vessel or class of vessels be inspected or reinspected, subject to fees or construction requirements or any other requirements of ORS 480.510 to 480.670. [1961 c.485 §11; 1967 c.447 §1; 1969 c.582 §4; 1973 c.830 §2; 1983 c.676 §5; 1985 c.398 §1; 1987 c.847 §1; 1991 c.518 §6; 1999 c.713 §1]

**480.530 Powers and duties of department.** The Department of Consumer and Business Services may:

(1) Where it appears that a person is engaging in or is about to engage in an act or practice in violation of any provision of ORS 480.510 to 480.670, obtain without furnishing a bond, a restraining order and injunction from the circuit court in the county where the act or practice is occurring, or is threatened, enjoining the act or practice. However, before obtaining a restraining order and injunction, unless the act or practice constitutes an immediate threat to health and safety, the department shall first notify the person concerned of its intentions. The notice shall be in writing and shall advise the person concerned of its intentions and shall advise the person concerned of the right to appeal in writing within 10 days and that the appeal will be heard by the Board of Boiler Rules. In case there is a timely request for an appeal, proceedings will be stayed pending the appeal, unless the act or practice constitutes an immediate menace to health or safety or the person concerned fails to prosecute the appeal with diligence.

(2) Keep a complete record of the types, dimensions, maximum allowable working pressures, age, location and date of the last recorded inspection of all boilers and pressure vessels to which ORS 480.510 to 480.670 apply.

(3) Publish and distribute copies of the rules and regulations.

(4) Check or caused to be checked the authenticity, appropriateness and expiration dates of licenses and certificates issued under ORS 480.510 to 480.670.

(5) Administer written, oral or practical examinations to all applicants for certification as chief inspector, deputy inspector or special inspector under ORS 480.565. [1961 c.485 §13; 1969 c.582 §5; 1971 c.753 §59; 1983 c.676 §6; 1991 c.518 §3]

**480.535 Board of Boiler Rules; members; duties; qualifications; confirmation.** (1) The Board of Boiler Rules is established in the Department of Consumer and Business Services. The Governor shall appoint the board, which shall formulate and promulgate rules under ORS 480.510 to 480.670 for the safe construction, installation, inspection, operation, maintenance and repair of boilers and pressure vessels in this state and review determinations made by its staff concerning boilers and pressure vessels.

(2) Eleven persons shall constitute the board, consisting of:

(a) One person who is an owner and user or who is a representative and employee of an owner and user of a high pressure boiler in Oregon and who has had practical experience with high pressure boilers;

(b) One person who is a manufacturer or who is a representative and employee of a manufacturer of boilers or of pressure vessels in Oregon;

(c) One person who is regularly engaged in the inspection of boilers and pressure vessels and who is employed by an insurer who may and does write policies of boiler and pressure vessels explosion insurance in Oregon;

(d) One person who is a mechanical engineer registered by the State of Oregon;

(e) One person who is a boilermaker;

(f) One person who is the owner and user or who is a representative and employee of an owner and user of a low pressure

boiler in Oregon;

(g) One person who is the owner and user or who is a representative and employee of an owner and user of a pressure vessel in Oregon and who has had practical experience with pressure vessels;

(h) One person who is an owner or employee of a business engaged in the installation and repair of boilers;

(i) One person who is a steamfitter;

(j) One person who is a practical steam operating engineer; and

(k) One person who is a member of the public not otherwise eligible for appointment to the board.

(3) A member of the board who does not continue to meet the qualifications for board membership under subsection (2) of this section during the member's term may not be appointed to a subsequent term.

(4) The appointment of a member of the board is subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution. [1961 c.485 §4; 1969 c.582 §6; 1971 c.753 §60; 1983 c.676 §7; 1991 c.518 §1; 1993 c.744 §142a; 2001 c.512 §1]

**Note:** Section 2, chapter 512, Oregon Laws 2001, provides:

**Sec. 2.** Notwithstanding ORS 480.535 (2)(h), as amended by section 1 of this 2001 Act, the member who is serving on the board pursuant to ORS 480.535 (2)(h) (1999 Edition) may continue to serve until the expiration of the term of office of the member. Upon a vacancy in the office of the member who is serving on the board pursuant to ORS 480.535 (2)(h) (1999 Edition), the Governor shall appoint a member pursuant to ORS 480.535 (2)(h), as amended by section 1 of this 2001 Act. [2001 c.512 §2]

**480.540 Term of members; removal; meetings; compensation and expenses.** (1) The term of office of a member is four years and no member shall be eligible for appointment to more than two full terms of office. A member shall continue to serve until a successor has been appointed and qualified. Vacancies shall be filled by appointment for the unexpired term.

(2) In addition to ORS 480.545 and 480.615, the Board of Boiler Rules shall be governed by the following rules:

(a) The board shall meet not less than four times a year.

(b) The chief inspector shall serve without a vote as secretary of the board.

(c) The Governor may remove any member of the board for cause.

(3) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1961 c.485 §5; 1969 c.314 §54; 1983 c.676 §8; 1993 c.744 §143]

**480.545 Adoption and enforcement of rules and minimum safety standards.** (1) Under ORS 183.310 to 183.550 the Board of Boiler Rules may adopt and enforce rules and minimum safety standards to carry out ORS 480.510 to 480.670 and adopt standards for persons performing welding on boilers and pressure vessels.

(2) All proceedings in the administration of ORS 480.510 to 480.670 shall be conducted under ORS 183.310 to 183.550 and, additionally, where applicable, under ORS 480.615.

(3) In addition to the rules otherwise provided, and subject to ORS 183.310 to 183.550, the board shall adopt rules concerning the times, dates, frequency and manner of giving notice to interested persons of intention to consider one or more of the things which the board may consider under this section.

(4) All rules and minimum safety standards adopted under this section shall be reasonable and in substantial conformity with generally accepted nationwide engineering standards. In adopting rules the board shall consider the probability, extent and gravity of injuries to health and property which would result from the failure to adopt the standards being considered and the standards followed, proposed or approved by members of affected industries.

(5) The board, by rule, shall adopt fees necessary for the administration and enforcement of the continuing education requirement under ORS 480.630.

(6) Any rule adopted by the board under ORS 480.510 to 480.670 shall be submitted to the Director of Department of Consumer and Business Services. The director shall have 30 calendar days from the date of adoption of the rules to review them. If the director fails to disapprove the rules within the 30-day period, the rules become effective in accordance with their terms and as provided by law. If the director disapproves the rules within the 30-day period, the rules immediately shall be returned to the board with the director's written objections, and the rules do not become effective until approved by the director. [1961 c.485 §7; 1969 c.582 §7; 1983 c.676 §9; 1991 c.518 §4; 2001 c.678 §1]

**480.550 Minimum safety standards; effect on existing vessels; application of subsequent amendments.** (1) Until different rules are adopted, there is adopted as the minimum safety standards for boilers and pressure vessels the published codification of standard engineering practices and formulae known as the "Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers," together with the published revisions and interpretations thereof in effect as of January 1, 1969.

(2) Any vessel in use on July 1, 1961, or in use on the effective date of any adoption of different rules, shall be deemed to meet the minimum safety standards so long as the same use continues and no change occurs which would reduce the safety of its operation. Provided that if the Board of Boiler Rules finds that there is a variation from the minimum safety standards which is dangerous to health or safety, it may order that all vessels having a like variation be brought into conformity with the rules created under this section, or adopted after July 1, 1961, without variation.

(3) The Board of Boiler Rules shall adopt minimum safety standards for pressure piping substantially equal to the published codification of standard engineering practices and formulae known as the “Code for Pressure Piping” of the American Society of Mechanical Engineers, numbered B 31.1, B 31.3, B 31.5, B 31.7 and B 31.9 together with the published revisions and interpretations thereof. [1961 c.485 §8; 1969 c.582 §8; 1973 c.830 §3; 1983 c.676 §9a; 1999 c.823 §1]

**480.555 Prohibitions relating to nonconforming vessels; exemptions.** (1) Except as provided in ORS 480.525 (1), no person shall:

(a) Make or direct the construction, installation, repair or alteration of a boiler or pressure vessel which does not meet minimum safety standards.

(b) Lend, rent out, or offer to lend or to rent out, sell, offer for sale, or dispose of by gift or otherwise, for operation, a boiler or pressure vessel that does not meet the minimum safety standards.

(c) Use, or attempt to use, a boiler or pressure vessel that fails to meet the minimum safety standards.

(d) Make any installation of a boiler or pressure vessel or repair thereon affecting the strength or safety thereof without notifying the chief inspector as prescribed by rules promulgated under ORS 480.545.

(2) Nothing in this section shall restrict the construction of boilers or pressure vessels in Oregon which are installed outside Oregon which do not conform to the provisions of ORS 480.510 to 480.670. [1961 c.485 §9; 1967 c.447 §5; 1969 c.582 §9; 1983 c.676 §10; 1991 c.518 §7]

**480.557** [Formerly 447.135; 1987 c.847 §2; 1991 c.518 §8; repealed by 1999 c.712 §1 and 1999 c.713 §2]

**480.560 Inspection requirements; additional exemptions permitted.** (1) Each boiler and pressure vessel used or proposed to be used within this state, except as exempted under ORS 480.510 to 480.670, shall be thoroughly inspected as to its construction, installation, operation and condition as follows:

(a) Power boilers, meaning boilers used to produce steam or vapor at a pressure in excess of 15 pounds per square inch gauge pressure, or a boiler used for heating liquid to a pressure in excess of 160 pounds per square inch gauge pressure, shall be annually inspected both internally, where construction permits, and externally while not under pressure and shall also be annually inspected externally while under pressure.

(b) Low pressure steam or vapor heating boilers, hot water heating boilers and hot water supply boilers shall be biennially inspected externally, while under pressure, and internally, where construction permits, except that cast iron heating boilers shall be inspected only externally unless the Board of Boiler Rules has reason to believe that an internal inspection of an individual boiler is necessary to assure safe operation.

(c) Pressure vessels subject to internal corrosion or erosion shall be inspected biennially both internally and externally where construction permits.

(d) Pressure vessels, no part of which are subject to internal corrosion or erosion shall be biennially inspected externally, except that vessels containing anhydrous ammonia, intended for use as fertilizer, shall be inspected externally once every three years and fixed vessels, containing only air, not located at a place of public assembly, not exceeding 20 cubic feet in volume and which are operated at gauge pressures of not more than 200 pounds per square inch shall be inspected once every five years.

(e) Pressure piping that is nonboiler external piping, but which excludes potable water nonboiler external piping, shall be inspected on installation only and shall not thereafter be considered as part of the boiler for the purposes of any subsequent inspections required by this section. Fees for such inspections shall be as provided in ORS 480.605 (1).

(2) The board, upon presentation of satisfactory evidence that jeopardy to health and safety will not be substantially increased thereby, may:

(a) Broaden the intervals between inspections, eliminate types of inspections, and correspondingly reduce the fees charged where the use, contents or construction of the vessel warrant special consideration; or

(b) Exempt additional classes of vessels to the same extent vessels are exempted either under ORS 480.525 (1) or (2).

(3) If a hydrostatic test is necessary to determine the safety of a boiler or pressure vessel, the test shall be made by the owner or user of such boiler or pressure vessel and witnessed by a deputy or special inspector.

(4) All boilers and pressure vessels to be installed in this state after July 1, 1961, shall be inspected during construction by an inspector authorized to inspect boilers in this state, or, if constructed outside of the state, by an inspector holding a certificate of competency issued by a state that has a standard of examination substantially equal to that of this state. [1961 c.485 §17; 1969 c.582 §10; 1973 c.830 §3a; 1983 c.676 §11; 1991 c.518 §9]

**480.565 Chief and deputy inspectors; special inspectors.** The Director of Department of Consumer and Business Services shall:

(1) Appoint a chief inspector who has had practical experience in the construction, maintenance, repair or operation of high pressure boilers and pressure vessels as a mechanical engineer, practical steam operating engineer, boilermaker or boiler inspector and who:

(a) Has passed a written examination which shall be confined to questions the answers to which will aid in determining the fitness and competency of the applicant to inspect boilers and pressure vessels; or

(b) Holds a certificate of competency as an inspector of boilers and pressure vessels which is issued by a state which has

standards of examination equal to those of the State of Oregon and which recognizes certificates of competency issued by the State of Oregon and has passed an examination that assesses the applicant's knowledge of ORS 480.510 to 480.670 and the rules adopted thereunder.

(2) Appoint deputy inspectors who shall be responsible to the chief inspector and who shall have qualified as provided in subsection (1) of this section, except that less practical experience shall be required.

(3) Issue a certificate of competency as a special inspector to any individual who shall have qualified as provided in subsection (1) of this section, except that no more practical experience shall be required than is required of a deputy inspector, and who is continuously employed by:

(a) An insurer who may and does write policies of boiler and pressure vessel insurance in Oregon; or

(b) Any person operating pressure vessels in this state whose service, personnel, equipment and supervision meet the requirements prescribed by the Board of Boiler Rules. [1961 c.485 §12; 1969 c.582 §11; 1971 c.753 §61; 1991 c.518 §13]

**480.570 Authority of special inspectors; exemption from permit fee.** (1) A special inspector receiving a certificate of competency under ORS 480.565 (3)(b) shall not inspect under ORS 480.510 to 480.670 any boiler; nor shall the special inspector inspect under ORS 480.510 to 480.635 any pressure vessel not used or not to be used by the employer of the special inspector.

(2) When the individual holds a certificate of competency issued pursuant to ORS 480.565 (3)(a), a special inspector is authorized to:

(a) Conduct shop inspections of boilers and pressure vessels manufactured or to be installed in this state whether or not such boilers or pressure vessels are insured or will be insured by the employer of the special inspector; and

(b) Inspect all boilers and pressure vessels insured or to be insured by the special inspector's employer or all pressure vessels operated by the special inspector's employer.

(3) A special inspector's certificate of competency remains in force only while the special inspector is continuously employed by one of the persons mentioned in ORS 480.565 (3).

(4) When a vessel is inspected by a special inspector as provided in this section, the owner or user of such boiler or pressure vessel is exempt from payment of the permit fee during the inspection period, except as provided in ORS 480.600 (2).

(5) The Department of Consumer and Business Services may cause a deputy inspector to inspect or reinspect all boilers and pressure vessels which could be inspected by a special inspector. However, there shall be no internal inspection or reinspection unless there is a question as to whether or not the boiler or pressure vessel meets the minimum safety standards and the special inspector who made the original inspection, or the employer of the special inspector, is given reasonable notice of the intention to make such inspection or reinspection so the special inspector or the employer of the special inspector can be present. [1961 c.485 §14; 1969 c.582 §12; 1983 c.676 §12; 1991 c.518 §5]

**480.575 Suspension or revocation of certificate of special inspector; hearing; reinstatement.** (1) A special inspector's certificate of competency may be suspended or revoked by the Board of Boiler Rules for incompetency, untrustworthiness or for any willful falsehood in the special inspector's application or in any inspection report.

(2) A certificate of competency shall not be suspended or revoked until after a hearing has been held before the board. The special inspector and the employer of the special inspector are entitled to appear at such hearings and to be heard.

(3) The board shall deliver to both the special inspector charged and to the employer of the special inspector, not less than 10 days prior to the hearing, a written notice of the charges and of the time and place of such hearing.

(4) The chief inspector appointed under ORS 480.565 may temporarily suspend a special inspector's certificate of competency pending a hearing before the board under this section. The hearing shall be held within 45 days of the date the special inspector's certificate is suspended. A temporary suspension under this subsection shall not be effective for more than 45 days.

(5) A special inspector whose certificate of competency has been suspended or revoked may apply for the reinstatement thereof not less than 90 days after the time of suspension or revocation. [1961 c.485 §15; 1969 c.582 §13; 1983 c.676 §13; 1999 c.598 §1; 2001 c.104 §222]

**480.580 Access to buildings and premises by inspectors.** (1) The chief inspector or any deputy inspector may, at all reasonable hours, in performance of the duties imposed by the provisions of ORS 480.510 to 480.670, enter into all buildings and upon all premises, except private residences, for the purpose of inspecting any boiler or pressure vessel which is covered by ORS 480.510 to 480.670 and which the chief inspector or the deputy inspector has reasonable cause to believe is located therein.

(2) No person shall interfere with or prevent any such inspection by such inspectors or deputy inspectors. [1961 c.485 §16; 1969 c.582 §14; 1983 c.676 §14]

**480.585 Permit for operation of vessels.** (1) Any person may apply to the Department of Consumer and Business Services for a permit for a boiler or pressure vessel:

(a) By filing reports showing details of the proposed construction before construction is started; or

(b) By submitting satisfactory proof that the boiler or pressure vessel has been constructed in accordance with minimum safety standards and has been found to be safe.

Such permit shall bear the date of the inspection period and specify the maximum pressure under which the boiler or pressure vessel may be operated. Except as provided by regulation, permits shall be posted in the room containing the vessel for which it is issued.

(2) The department may at any time suspend or revoke a permit when, in its opinion, the boiler, pressure vessel or related appurtenances for which it was issued is found not to comply with ORS 480.510 to 480.670. Suspension of any permit continues in effect until the vessel shall have been made to conform to ORS 480.510 to 480.670 and the permit reissued. However, before suspending or revoking a permit, the department shall first notify the person concerned of its intention. The notice shall be in writing and shall advise the person concerned of the right to appeal in writing within 10 days and that the appeal will be heard by the Board of Boiler Rules. Provided, in case there is a timely appeal, the permit will not be suspended or revoked pending the appeal unless the reason for suspension or revocation constitutes an immediate menace to health or safety or the person concerned fails to prosecute an appeal with diligence.

(3) Except as provided in ORS 480.510 to 480.670, no person shall operate a boiler or pressure vessel unless a valid permit for its operation, issued under this section, is attached thereto or posted in a conspicuous place in the room where the boiler or pressure vessel is located; nor shall any person permit or suffer the operation of the boiler or pressure vessel on property which the person owns, controls, manages or supervises unless a valid permit for its operation, issued under this section, is attached thereto or posted in a conspicuous place in the room where said boiler or pressure vessel is located; nor shall the owner or lessee or person having possession of a boiler or pressure vessel permit or suffer its operation unless a valid permit, issued under this section, is attached thereto or posted in a conspicuous place in the room where the boiler or pressure vessel is located. The board may waive by rule the provisions of this section. [1961 c.485 §18; 1967 c.447 §2; 1969 c.582 §15; 1983 c.676 §15; 1993 c.744 §144]

**480.590** [1961 c.485 §10; repealed by 1983 c.676 §31]

**480.595 Permit fees generally.** (1) Upon receipt of a permit fee due on a date determined by the Department of Consumer and Business Services, and on the same day of each year thereafter in which an inspection is due pursuant to ORS 480.560, the Department of Consumer and Business Services may issue or renew a permit before or after an inspection has been made pursuant to ORS 480.510 to 480.670.

(2) Permit fees shall be prescribed by the Board of Boiler Rules with approval of the Oregon Department of Administrative Services, and may be prorated.

(3) Maximum operating permit fees shall be determined as follows:

(a) Boilers of 15 horsepower or less..... $ 65
(b) Boilers greater than 15 horsepower to 100 horsepower..... $ 85
(c) Boilers greater than 100 horsepower to 500 horsepower..... $100
(d) Boilers greater than 500 horsepower..... $110
(e) Cast iron boilers..... $ 65
(f) Pressure vessels having a product volume of 20 cubic feet or less..... $ 55
(g) Pressure vessels having a product volume greater than 20 cubic feet..... $ 75

(4) A reinspection fee shall be charged at the maximum rate of $60 per hour for travel and inspection time to defray the cost of a reinspection when deviations from the minimum safety standards are found during any inspection. [1961 c.485 §19; 1967 c.447 §3; 1969 c.582 §16; 1973 c.830 §6; 1973 c.832 §18a; 1974 c.36 §17; 1981 c.566 §2; 1983 c.676 §16; 1991 c.201 §3; 2001 c.162 §1]

**480.600 Special provisions on permit fees; notice from insurer.** (1) The permit fee established under ORS 480.510 to 480.670, for a quantity of pressure vessels available for inspection at the same location, shall be fixed by the Board of Boiler Rules at cost, in accordance with the time required to conduct the inspection and the inspector’s mileage to the place of inspection. However, in no case shall the total payment be more than the total of the individual pressure vessel fees fixed by ORS 480.510 to 480.670.

(2) The owner or user of any vessel which is to be inspected during the inspection period under the provisions of ORS 480.570 shall pay to the Department of Consumer and Business Services a special permit fee of $25, except that the department may require payment of a permit fee as provided in ORS 480.595 where it finds the vessel to be in violation of the minimum safety standards during the inspection period. In addition, for a quantity of pressure vessels inspected at the same location, the board may establish a different special permit fee which recognizes the lower costs of handling, but in no such case shall the total payment be more than the total of individual pressure vessel fees fixed by ORS 480.510 to 480.670.

(3) If there is a lengthened inspection interval under ORS 480.560 (2), the permit fee interval shall be lengthened correspondingly.

(4) Whenever an insurance company notifies its insured that it will no longer insure a boiler or pressure vessel, or that insurance on a boiler or pressure vessel is no longer in force, the insurance company shall also notify the chief boiler inspector, in a form and manner prescribed by the chief boiler inspector, of the description and vessel registration numbers of the boilers or pressure vessels for which insurance is canceled or suspended or is not to be renewed.

(5) Whenever an owner or user of a boiler or pressure vessel fails to pay any fee required by this chapter within 60 days

after the date of depositing written notification in the United States mail, postage prepaid, and addressed to the last-known address of the owner or user, the fee shall be considered delinquent and the fee shall be increased by an amount equal to 50 percent of the original fee. The court may award reasonable attorney fees to the department if the department prevails in an action to collect a fee required by this chapter. The court may award reasonable attorney fees to a defendant who prevails in an action to collect a fee required by this chapter if the court determines that the department had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court. [1961 c.485 §21; 1967 c.447 §4; 1969 c.582 §17; 1973 c.830 §7; 1973 c.832 §18b; 1974 c.36 §18; 1981 c.566 §3; 1981 c.897 §57; 1983 c.676 §17; 1991 c.201 §4; 1991 c.518 §18; 1995 c.696 §25; 1999 c.711 §1]

**480.605 Miscellaneous fees.** The Department of Consumer and Business Services may:

(1) Collect fees for shop inspections, inspections of vessels and for inspection of vessels which have been changed in installation location after primary use and for any other type of inspection of boilers, pressure vessels or pressure piping which may be required by any person or persons, including any governmental units, all such inspections to be at the cost of inspection, in accordance with the time required to make the inspection, plus the expense of the inspector including lodging and travel. The hourly charge, or portion thereof, shall be fixed by the Board of Boiler Rules.

(2) Collect a fee for welding and inspectors' examinations and for annual renewal of inspectors' certifications. The amount of the fee shall be fixed by the board.

(3) Collect an additional fee from the owner or user when it is necessary to make a special trip to witness the application of a hydrostatic or other test. The amount of the fee shall be fixed by the board. [1961 c.485 §22; 1969 c.582 §18; 1973 c.830 §8; 1993 c.744 §145]

**480.607 Fee increase.** Notwithstanding the fees prescribed in ORS 480.595 (3) and (4), 480.600 (2) and 480.630 (4) and (6), and subject to the prior approval of the Department of Consumer and Business Services, the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees, the Board of Boiler Rules may increase the fees referred to in this section by an amount not greater than 10 percent. The fees shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. The fees must not exceed the cost of the program, including but not limited to the cost of administering a continuing education registry. [1983 c.676 §20b; 1991 c.703 §16; 2001 c.678 §2]

**480.610 Disposition of fees.** All receipts from fees, charges, costs and expenses under ORS 480.510 to 480.670 shall be collected by the Department of Consumer and Business Services and paid into the Consumer and Business Services Fund created by ORS 705.145. Such moneys shall be used only for the administration and enforcement of ORS 480.510 to 480.670. [1961 c.485 §23; 1973 c.834 §42; 1983 c.676 §18; 1993 c.744 §146]

**480.615 Appeals.** (1) The Board of Boiler Rules shall hear the appeal of an appellant who has filed a timely written request and who (a) has received notice that a restraining order or injunction will be sought, or (b) has received notice that a permit will be suspended or revoked, or (c) is affected by either of such notices. The board shall likewise hear the appeal of an appellant who has filed a written request and who has reason to desire a change in the minimum safety standards or the rules.

(2) The board shall set the time and place for hearing and give the appellant 10 days' written notice.

(3) All appeals shall be heard within three months of receipt of the request. Provided, if immediate menace to health or safety is involved, the appeal shall be heard within 20 days of receipt of the request.

(4)(a) Two or more appeals may be consolidated for hearing, if based upon substantially the same facts.

(b) The board and the appellant may subpoena witnesses who shall receive the same compensation and mileage pay as circuit court witnesses.

(c) A written or recorded record shall be kept. [1961 c.485 §26; 1983 c.676 §19; 1991 c.518 §10]

**480.630 Licensing and certification of persons installing, altering or repairing boilers or pressure vessels; examination; fee.** (1) A person may not engage in the business of installing, repairing or altering boilers or pressure vessels unless the person first obtains a license therefor from the Department of Consumer and Business Services.

(2) A person may not install, repair or alter boilers or pressure vessels as an employee of a business engaged in the installing, repairing or altering of boilers or pressure vessels unless the person first obtains certification therefor from the department.

(3) The chief inspector may conduct examinations for certification of an employee or agent of a business to establish the competency of the applicant.

(4) Licenses and certification shall be issued by the department upon recommendation of the Board of Boiler Rules and upon payment of a fee of $25 for each application for an employee or agent's certification and $150 for each application for a business license.

(5) The licenses and certifications shall be renewed annually without reexamination upon payment of the fees in subsection (4) of this section and, for renewal of a certificate, compliance with the continuing education requirement established in subsection (9) of this section.

(6) A person may not install, alter or repair a boiler or pressure vessel without first securing a permit therefor from the

department unless the person is not subject to licensure or certification. Permits shall be issued only to the persons licensed. A permit fee of $15 shall be paid directly to the department.

(7) In the case of an emergency, a permit is not required in advance for boiler or pressure vessel installations, or repair, as required under subsection (6) of this section, if an application accompanied by the appropriate fee for a permit is submitted to the department within five days after the commencing of the boiler or pressure vessel work.

(8) The certification and examination requirements of this section do not apply when a person is brought in from out of state to repair or alter a boiler or pressure vessel utilizing special tools or a special process for which that person is uniquely qualified. The activity shall be limited solely to the special process and the person performing the work shall have qualifications which meet or exceed the state's certification standards as determined by the chief boiler inspector. The chief boiler inspector shall be notified prior to performance of any work under this subsection.

(9) A person having a certificate issued under subsection (4) of this section must complete eight hours of board-approved continuing education every year.

(10) The continuing education requirement established in subsection (9) of this section applies only to persons certified by the board to perform work equivalent to that performed by pressure vessel installers, building service mechanics, boilermakers or pressure piping mechanics. [1973 c.830 §4; 1983 c.676 §20; 1987 c.414 §36; 1991 c.201 §5; 2001 c.678 §3]

**480.632 Employment of person not a certificate holder prohibited.** No person registered to conduct a boiler or pressure vessel business shall employ any person to work on a boiler or pressure vessel who does not hold a valid state certification issued under ORS 480.630. [1983 c.676 §24]

**480.634 Exemption of journeyman plumber for certain activities.** A person having a current certificate of competency as a journeyman plumber under ORS 693.050 does not have to obtain certification under ORS 480.630 (2) to work as an employee of a business engaged in installing or replacing by nonwelded means, a potable domestic water heater, not used for space heating, which does not exceed 180 gallons in capacity, nor water temperature of 210 degrees Fahrenheit nor pressure of 150 pounds per square inch gauge pressure nor a heat input in excess of 750,000 BTU per hour. This section does not allow construction, repair or alteration of the domestic potable water heater. [1991 c.518 §15]

**480.635 Procedure for suspension of license or certification; reinstatement.** (1) License or certification issued pursuant to ORS 480.630 may be suspended by the chief inspector for the incompetence of the holder thereof or for willful falsification of any matter or statement contained in an application or in a report of any inspection made by the holder. Written notice of the suspension shall be given by the chief inspector within not more than 10 days to the person who holds the license or certification, the employer of the person and the Board of Boiler Rules. A person whose license or certification has been suspended may appeal to the board as provided and be present in person and be represented by counsel at the hearing of the appeal.

(2) If the board has reason to believe that a person who holds a license or certification is no longer qualified to hold the license or certification, the board, upon not less than 10 days' written notice to the person and the employer of the person, shall hold a hearing at which the person and the employer shall have an opportunity to be heard. If, as a result of the hearing, the board finds that the person is no longer qualified to hold the license or certification, the board shall thereupon revoke the license or certification forthwith.

(3) A person whose certification has been suspended may apply, after 90 days from the date of the suspension, for reinstatement of the certification. [1973 c.830 §5; 1983 c.676 §21]

**480.640 When court action not available.** No person providing services connected with boilers or pressure vessels may bring or maintain an action in the courts of this state to recover for such services unless the person alleges and proves that, at the time the services were performed, the person performing them held a state certification issued under ORS 480.630. [1983 c.676 §25; 1991 c.518 §11]

**480.645 Standardized examination; administration.** (1) The Board of Boiler Rules shall cause to be prepared examinations that are standardized. In standardizing examinations under this subsection, the board may adopt standardized examinations prepared by nationally recognized bodies.

(2) The board shall allow any person who takes an examination to review the examination and test results of that person. [1983 c.676 §26; 1991 c.518 §12]

**480.647 Quality control procedures for welding on nonboiler external piping.** (1) The Board of Boiler Rules may adopt rules creating quality control procedures for welding on nonboiler external piping and may adopt its own Oregon welded stamp symbol.

(2) The board shall not require the adoption of "R" stamp provisions of the National Board of Inspection Code or the American Society of Mechanical Engineers Certification of Authorization requirements related to boilers for welding on nonboiler external piping.

(3) The board shall accept an "R" stamp certification by the National Board of Inspection Code or the American Society of Mechanical Engineers Certification of Authorization as meeting the requirements of subsection (1) of this section and may

accept any other quality control program for welding that is at least equivalent to the Oregon quality control procedures adopted under subsection (1) of this section.

(4) All review by the Department of Consumer and Business Services for individual approval of quality control procedures and requirements shall be charged at the shop inspection rates under ORS 480.605. [1991 c.518 §16; 1993 c.744 §148]

**480.660 Notice of violation; correction; when use prohibited; appeal.** (1) If an inspector determines that any condition exists that is a violation of the safety standards prescribed pursuant to ORS 480.510 to 480.670, the inspector shall post a notice in plain view on or near the affected boiler or pressure vessel that specifies the defective condition, and shall provide a copy of the notice to the owner or user of the affected boiler or pressure vessel, or to a representative of the owner or user.

(2) If no immediate hazard to health and safety is evident, the notice shall state that correction of the defective condition is required within 30 days of the date of the inspection. If the correction is not completed within the 30-day period, the owner or user of the boiler or pressure vessel may apply to the chief boiler inspector for extension of the time for making the correction. If the chief boiler inspector determines that corrective action was commenced within the time period specified in the notice, an extension may be granted for such time as is required to complete corrective action.

(3) If an immediate hazard to health and safety is evident, the notice shall prohibit further use of the boiler or pressure vessel. The inspector immediately shall report that action to the chief boiler inspector.

(4) If any person is aggrieved by a determination made upon inspection under this section, the person first shall appeal that determination to the chief boiler inspector and then to the Board of Boiler Rules. Subsequent appeal shall be as provided in ORS 183.480 to 183.550. [1983 c.676 §28]

**480.665** [1983 c.676 §27; 1991 c.734 §47; 1999 c.846 §3; repealed by 2001 c.411 §31]

**480.670 Civil penalty for Boiler and Pressure Vessel Law violations.** The Board of Boiler Rules may impose a civil penalty for a violation of ORS 480.510 to 480.670 or rules adopted for the administration and enforcement of those sections. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895. [2001 c.411 §10]

PENALTIES

**480.990 Penalties.** (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.

(2) Violation of any provision of ORS 480.050, 480.060 or 480.290 is a Class C misdemeanor.

(3) Violation of ORS 480.070 is a Class A misdemeanor.

(4) Violation of ORS 480.085 is a Class B violation.

(5) Violation of any provision of ORS 480.110 to 480.165 is a Class B misdemeanor. Violations thereof may be prosecuted in state or municipal courts when violations occur within the municipality served thereby. Justice courts shall have concurrent jurisdiction with circuit courts in all proceedings arising within ORS 480.110 to 480.165.

(6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.

(7) Violation of any provision of ORS 480.420 to 480.460 is a Class B violation.

(8) Subject to ORS 153.022, violation of any provision of ORS 480.510 to 480.670, or any rule promulgated pursuant thereto, is a Class A misdemeanor. Whenever the Board of Boiler Rules has reason to believe that any person is liable to punishment under this subsection, it may certify the facts to the Attorney General, who may cause an appropriate proceeding to be brought. [Subsection (4) of 1963 Replacement Part enacted as 1961 c.722 §3; subsection (10) enacted as 1961 c.485 §24; subsection (4) enacted as 1963 c.384 §3; 1965 c.602 §24; subsection (3) enacted as 1967 c.417 §22; subsection (7) enacted as 1971 c.518 §25; 1983 c.676 §22; 1985 c.165 §3; 1987 c.158 §111; 1991 c.863 §59; 1999 c.1051 §193]