

OFFICE OF STATE FIRE MARSHAL

WHOLESALE FIREWORKS ADMINISTRATIVE RULES



OFFICE OF STATE FIRE MARSHAL

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**WHOLESALE SALES OF FIREWORKS
ADMINISTRATIVE RULES
May 1, 2008**

RULES

WHOLESALE SALES OF FIREWORKS

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OREGON ADMINISTRATIVE RULES

WHOLESALE SALES AND STORAGE OF FIREWORKS IN OREGON Effective May 1, 2008

837-012-0500

Purpose and Scope

These rules establish permit and other requirements for Persons who Sell or provide by any other means, or intend to Sell or provide by any other means, at wholesale, Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks in or into Oregon, or from Oregon for delivery into another state.

Stat. Auth.: ORS 476, ORS 478 & ORS 480

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02

837-012-0505

Effective Dates

OAR 837-012-0500 through 837-012-0570 are effective upon date of filing.

Stat. Auth.: ORS 476, ORS 478 & ORS 480

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02

837-012-0510

Definitions

For purposes of ORS 480.110 through 480.165 and OAR 837-012-0500 through 837-012-0570, the following definitions apply:

- (1) "Agricultural Fireworks" shall mean Fireworks used for the purpose of scaring away or repelling birds or animals pursuant to ORS 480.122 or controlling predatory animals pursuant to ORS 480.124.
- (2) "BATFE" shall mean the Bureau of Alcohol, Tobacco, Firearms and Explosives.
- (3) "Carton, Container, or Case" shall mean any box, parcel, bundle, or other package used to hold or contain Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks for purposes of transportation and/or storage. The term does not include:
 - (a) The wrapping and/or packaging used to hold or contain a single or small number of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks; or

(b) A vehicle or other mobile container used to transport Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(4) "Domicile" shall mean a Person's legal home; the particular place that a Person intends to make the Person's fixed and permanent home and abode.

(5) "Exempt Fireworks" shall mean Novelties and Trick Noisemakers.

(6) "Fireworks" shall have the meaning provided in ORS 480.110(1). The term includes Retail Fireworks, Public Display Fireworks and Agricultural Fireworks. The term does not include Exempt Fireworks.

(7) "Individual" shall mean a single human being.

(8) "Individual Member of the General Public" shall mean:

(a) For Persons in Oregon, any Person who has not been issued a Wholesale Permit, a general, limited or special effects public display permit, a retail permit, or an agricultural permit by the Office of State Fire Marshal.

(b) For Persons outside of Oregon, any Person who has not been issued a license and/or permit when such a license and/or permit is required, authorizing the Person to Sell, purchase, obtain, transport, possess, use or discharge Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(9) "In-state Wholesaler" shall mean a Wholesaler who owns, possesses, or occupies a Wholesale Site located in Oregon.

(10) "Local Fire Authority" shall mean the local fire official having jurisdiction over the Wholesale Site and Wholesale Operations.

(11) "Manager" shall mean the Individual identified on the Permit Application who is responsible for, and directs the operations at, the Wholesale Site.

(12) "NFPA" shall mean the National Fire Protection Association.

(13) "Novelties and Trick Noisemakers" shall mean those items described in ORS 480.110(1)(a) and (b) and NFPA 1124, Section 1.4, 2003 Edition. It also means Exempt Fireworks.

(14) "Out-of-State Wholesaler" shall mean a Wholesaler who owns, occupies, or possesses a Wholesale Site located outside of Oregon.

(15) "Permit Application" shall mean the application form(s) and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of a Wholesale Permit.

(16) "Public Display Fireworks" shall mean Fireworks that are authorized under a general, limited, or special effects public display permit

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issued pursuant to ORS 480.130, 480.140 and 480.150.

(17) "Residence" shall mean the particular dwelling place where a Person lives and has a present intent to remain for a period of time.

(18) "Resident" shall mean any Person who occupies a dwelling in a state and has a present intent to remain in the state for a period of time.

(19) "Retail Fireworks" shall mean those items described in ORS 480.127(4), specifically Combination Items, Cone Fountains, Cylindrical Fountains, Flitter Sparklers, Ground Spinners, Illuminating Torches, and Wheels. The term does include a firework designed with the. Means to roll or move while remaining on the ground, that travels 12' or less horizontally on smooth surfaces.

(20) "Retailer" shall mean any Person who, Sells, transfers, or provides by any other means, or intends to Sell, transfer or provide by any other means, Retail Fireworks to Individual Members of the General Public.

(21) "Sales Representative" shall mean an Individual who is an employee of the Wholesale Permit holder and is authorized to conduct sales for the Wholesale Permit holder.

(22) "Sell" shall mean to transfer possession of property from one Person to another Person for consideration.

(23) "Wholesale Operations" shall mean the sale of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks and related activities, including the purchase, possession, storage and transportation of such Fireworks.

(24) "Wholesale Permit" shall mean the official written document issued by the Office of State Fire Marshal that authorizes the purchase, transport, possession, packaging, storing and sale of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks when otherwise in compliance with all applicable requirements of ORS 480.110 through 480.165, OAR Chapter 837, Division 12, and any other applicable federal, state and local laws, rules and regulations.

(25) "Wholesale Site" shall mean the location where a Wholesaler's sales and storage facilities are operated and maintained.

(26) "Wholesaler" shall mean any Person who Sells or provides by any other means, or intends to Sell or provide by any other means, Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp),

f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0515

General

(1) Wholesalers desiring to engage in other types of Fireworks activities, including retail sales, agricultural use, or public displays must meet all applicable requirements in ORS 480.110 through 480.165 and OAR chapter 837, division 12, including those pertaining to obtaining permits for such activities from local, federal, and state authorities.

(2) A Wholesale Permit holder shall not Sell or provide by any other means Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks for shipment or transport in or into the State of Oregon, to any Person who does not possess and present to the Wholesaler for inspection at the time of sale, a valid permit issued by the Office of State Fire Marshal authorizing the holder of the permit to purchase, obtain, possess, use, discharge, transport, store, distribute, or Sell Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(3) Wholesale Permit holders shall comply with all applicable federal, state, and local laws, rules and regulations pertaining to Fireworks, including:

(a) ORS 480.110 through 480.165; and

(b) OAR chapter 837, division 12

(4) Wholesale Permit holders shall notify the Office of State Fire Marshal, in writing, within two weeks of the date of change of:

(a) Identity of the Manager;

(b) The Wholesale Permit holder's mailing address or telephone number;

(c) Ownership of the Wholesale Site;

(d) Ownership of the Wholesale Operation; or

(e) The addition, or subtraction, of a Sales Representative for the Wholesale Permit holder.

(5) Exempt Fireworks are exempt from the permit requirements set forth in ORS 480.110 through 480.165 and OAR chapter 837, division 12. Exempt Fireworks may be sold and purchased without either the seller or purchaser having first obtained a permit issued by the Office of State Fire Marshal.

(6) Wholesale Permit holders, who provide 1.3g Fireworks, shall provide, at a minimum, one general operator certification training course annually as required by OAR 837-012-0780.

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

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

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Hist.: FM 2-1982(Temp), f. & ef. 3-5-82; FM 3-1982(Temp), f. & ef. 4-16-82; FM 3-1985, f. & ef. 4-17-85; FM 1-1986, f. & ef. 1-9-86; FM 6-1986(Temp), f. & ef. 6-10-86; FM 9-1986, f. & ef. 12-10-86; Suspended by FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; Renumbered from 837-012-0125; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 8-2002, f. & cert. ef. 10-4-02; OSFM 6-2004(Temp), f. & cert. ef. 11-17-04 thru 5-15-05; Administrative correction 5-20-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0520

Wholesale Permit Applications

- (1) Any In-State Wholesaler engaged in, or intending to engage in, the sale, provision, or shipment of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, within Oregon, or from Oregon for delivery into another state, shall first apply for and obtain a Wholesale Permit issued by the Office of State Fire Marshal.
- (2) Any Out-of-State Wholesaler engaged in, or intending to engage in, the sale, provision, or shipment of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, in or into Oregon shall first apply for and obtain a Wholesale Permit issued by the Office of State Fire Marshal.
- (3) A separate Wholesale Permit shall be applied for and obtained for each Wholesale Site that may conduct Wholesale Operations within, from, or into Oregon.
- (4) The application for a Wholesale Permit shall be made on a form provided by the Office of State Fire Marshal.
- (5) All information provided by the applicant on the Permit Application shall be true and correct to the applicant's knowledge.
- (6) In addition to completion of the Wholesale Permit application forms, applicants shall submit:
 - (a) A copy of a current photographic identification card of the applicant(s). The Office of State Fire Marshal shall accept only photo identification issued by the Department of Motor Vehicles in the applicant's state of residency. For purposes of this rule, if the applicant is a corporation, the applicant shall submit copies of photographic identification of all the corporate officers. If the applicant is a partnership, the applicant shall submit copies of the photographic identification of all partners.
 - (b) A description of the types, pursuant to United States Department of Transportation classification, and the maximum quantities, by total gross weight, of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks to be stored at

the Wholesale Site for which a Wholesale Permit has been applied;

- (7) As part of the Permit Application process, the applicant shall obtain the approval of the Local Fire Authority and the local building official prior to submitting their application to the Office of State Fire Marshal.
- (8) Exception to 837-012-0520(7) If the applicant's Wholesale Site address was continuous during the year preceding the year for which the Wholesale Permit renewal is sought, the applicant is required only to re-submit to the Office of State Fire Marshal, as part of the Wholesale Permit renewal application, the approval of the Local Fire Authority.
- (9) As part of the Permit Application, Wholesale Permit applicants who intend to Sell or provide 1.3G Fireworks shall submit to the Office of State Fire Marshal a copy of their appropriate license issued by BATFE.
- (10) Applicants shall submit the completed Permit Application to the Local Fire Authority for review and signature approving the Wholesale Site prior to submission of the Permit Application to the Office of State Fire Marshal.
- (11) Permit Applications shall be signed by the applicant(s).
 - (a) If the applicant is a partnership, the application shall be signed by every partner.
 - (b) If the applicant is a corporation, the application shall be signed by an officer of the corporation.
 - (c) If the applicant is an Out-of-State Wholesaler, the application shall be signed by the applicant and the Manager.
- (12) Permit Applications shall not be submitted to the Office of State Fire Marshal prior to October 1 of the year preceding the year for which the Wholesale Permit is sought.
- (13) Permit Applications shall be postmarked by a United States Postmark, or received at the Office of State Fire Marshal, no later than December 18 of the year preceding the year for which the Wholesale Permit is sought. If December 18 falls on a day when a postmark cannot be obtained, applications shall be postmarked on the preceding business day when a postmark can be obtained. If December 18 falls on a day when the Office of State Fire Marshal is closed, and the applicant wishes to hand deliver their application, it shall be delivered to the Office of State Fire Marshal at the Salem office on the preceding business day. However, due to limited resources in the fireworks program, it is recommended that wholesale fireworks permit applications be postmarked or submitted to the OSFM by December 1 of the year preceding the year for which the permit is sought.

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(14) Relocation of the Wholesale Site shall require submission of a new Permit Application and Wholesale Permit fee.

(15) Only one Wholesale Permit shall be applied for or issued for each Wholesale Site.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1982(Temp), f. & ef. 3-5-82; FM 3-1982(Temp), f. & ef. 4-16-82; FM 3-1985, f. & ef. 4-17-85, FM 1-1986, f. & ef. 1-9-86; FM 6-1986(Temp), f. & ef. 6-10-86; FM 9-1986, f. & ef. 12-10-86; Suspended by FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; Renumbered from 837-012-0120; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 8-2002, f. & cert. ef. 10-4-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 1-2008(Temp), f. & cert. ef. 1-25-08 thru 7-3-08; OSFM 2-2008, f. 4-3-08, cert. ef. 5-1-08

837-012-0525

Wholesale Permits

(1) Within 30 days of receipt of a properly completed and timely submitted Permit Application and Wholesale Permit fee, the Office of State Fire Marshal shall either issue or propose to deny the Wholesale Permit.

(2) The Office of State Fire Marshal shall not approve a Permit Application or issue a Wholesale Permit without the prior approval of the Local Fire Authority.

(3) The Office of State Fire Marshal shall assign a unique number to each Wholesale Permit issued.

(4) The Office of State Fire Marshal shall mail the original Wholesale Permit to the applicant at the mailing address listed on the Permit Application.

(5) Wholesale Permit holders may request a duplicate copy of their permit by certifying to the Office of State Fire Marshal, in writing, that their permit has been lost, stolen or destroyed. Written requests shall be signed and dated by the applicant pursuant to OAR 837-012-0520(12).

(6) The issuance of a Wholesale Permit does not in any way constitute approval by the Office of State Fire Marshal of any Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks purchased, sold or provided by any other means pursuant to the permit.

(7) A Wholesale Permit allows the holder of the permit to engage in the purchase, transportation, possession, storage and sales of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural

Fireworks, when those activities are otherwise in conformance with applicable requirements of ORS 480.110 through 480.165, OAR Chapter 837, Division 12, and any other applicable federal, state and local laws, rules and regulations pertaining to Fireworks.

(8) A Wholesale Permit authorizes the holder of the permit to Sell or provide by any other means, Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, within or into Oregon, only to holders of:

(a) General, limited, or special effects public display permits;

(b) Retail permits;

(c) Wholesale Permits; or

(d) Agricultural use permits.

(9) A Wholesale Permit does not authorize the sale or provision by any other means, of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks to Individual Members of the General Public.

(10) The Wholesale Permit and permit number issued by the Office of State Fire Marshal are valid from January 1 to December 31 of the year for which they are issued. All Wholesale Permits and permit numbers expire on December 31 of the year in which they are valid. A Wholesale Permit holder may be issued the same permit number every year if the permit holder applies for and obtains a Wholesale Permit in consecutive years.

(11) The Wholesale Permit is not transferable to another Person nor can another Person perform any activities authorized by the Wholesale Permit unless that Person is listed in the Permit Application.

(12) Only the Wholesale Permit holder and the employees of the Wholesale Permit holder may engage in Wholesale Operations authorized by the Wholesale Permit.

(13) The Wholesale Permit holder's name, mailing address and Wholesale Permit number shall be imprinted and/or affixed by the Wholesale Permit holder to:

(a) All sales forms, orders, invoices, inventory sheets and any other similar or related documents issued, used or completed by the Wholesale Permit holder in conducting its Wholesale Operations; and

(b) The outside of all Cartons, Containers, or Cases of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks being shipped, transported, or otherwise provided by the Wholesale Permit holder.

(14) All shipments by a Wholesale Permit holder of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks must show on the outside of each Carton, Container or Case, sales

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forms, orders, invoices, inventory sheets and any other similar or related documents issued, used or completed by the Wholesale Permit holder the full name and permit number of the permit holder to whom the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are being provided.

(a) If the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are being shipped, transported or otherwise provided in or into Oregon, the shipment must show an Office of State Fire Marshal-issued permit number.

(b) If the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are being shipped, transported or otherwise provided from Oregon for delivery into another state, the shipment must show the appropriate license or permit number, if the Person to whom the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are being provided is required under the laws of the other state to possess a license or permit.

Stat. Auth.: ORS 476, 478 & 480
Hist.: FM 2-1982(Temp), f. & ef. 3-5-82; FM 3-1982(Temp), f. & ef. 4-16-82; FM 3-1985, f. & ef. 4-17-85, FM 1-1986, f. & ef. 1-9-86; FM 6-1986(Temp), f. & ef. 6-10-86; FM 9-1986, f. & ef. 12-10-86; Suspended by FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; Amended and renumbered from 837-012-0120; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 8-2002, f. & cert. ef. 10-4-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0530 Permit Fees

(1) Permit fees shall be paid at, or mailed to, the Office of State Fire Marshal and shall accompany the Permit Application.

(2) Payment shall be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal shall not take any action on the Permit Application until the check has cleared the bank.

(3) The permit fee shall be \$2,500.

(4) Permit fees are non-refundable. Exception: The State Fire Marshal may refund all or part of the permit fee if it is determined the application is not appropriate or the permit is denied.

(5) Permit fees are non-transferable to any other individual or business.

Stat. Auth.: ORS 476, 478 & 480

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 6-2004(Temp), f. & cert. ef. 11-17-04 thru 5-15-05; Administrative correction 5-20-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0535

Denial, Suspension and/or Revocation of Wholesale Permit

(1) The Office of State Fire Marshal may deny, suspend or revoke a Wholesale Permit if a Wholesale Permit holder, or an applicant for a Wholesale Permit, fails to comply with ORS 480.110 through 480.165 or OAR Chapter 837, Division 12.

(2) The period of denial, suspension or revocation shall not exceed three years. In determining the appropriate sanction, the Office of State Fire Marshal shall consider the following criteria:

(a) The severity of the violation(s) and/or its impact on public safety, particularly whether the

circumstances of the violation(s) presented a significant fire hazard or other public safety danger;

(b) The number of similar or related violations alleged to have been committed in the current transaction, event or occurrence;

(c) Whether the violation(s) was willful or intentional;

(d) The prior history of sanctions imposed by the Office of State Fire Marshal against the Wholesale Permit holder or applicant; and

(e) Other circumstances determined by the Office of State Fire Marshal to be applicable to the particular violation(s).

(3) Suspension or revocation of a Wholesale Permit may include suspension or revocation of the current permit and the right to apply for a renewal permit.

(4) The Office of State Fire Marshal may deny, suspend or revoke all Wholesale Permits issued to a Wholesale Permit holder or applicant for each of the permit holder's or applicant's Wholesale Sites pursuant to OAR 837-012-0520(3).

(5) At any time after the expiration of any period of denial of a Permit Application, or suspension or revocation of a Wholesale Permit, imposed by the Office of State Fire Marshal, the applicant or Wholesale Permit holder subject to the denial, suspension or revocation may submit to the Office of State Fire Marshal a Permit Application. The Office of State Fire Marshal shall either grant or deny the application pursuant to OAR 837-012-0525(1). If granted, the Wholesale Permit shall be valid for the remainder of the calendar year.

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Stat. Auth.: ORS 476, ORS 478 & ORS 480
Stats. Implemented: ORS 480.110 - ORS 480.165
Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02

837-012-0540

Wholesale Sites Located in Oregon

(1) The location of a Wholesale Site shall not present a significant risk to surrounding life and property or to the ability of local emergency response agencies to respond.

(2) The Wholesale Site shall be designed, constructed, operated, maintained and separated in conformance with the applicable requirements of:

(a) NFPA 1124, Code for the Manufacture, Transportation, and Storage of Fireworks, 2003 Edition (The separation distances shall be met as required by NFPA 1124, 2003 Edition. All Fireworks stored at the Wholesale Site shall be considered in calculating the separation distances);

(b) NFPA 68, Guide for Explosion Venting, 2002 Edition;

(c) Oregon Structural Specialty Code, 2004 Edition;

(d) Oregon Fire Code, 2004 Edition;

NOTE: Wholesale Sites that are currently approved may not be required to be altered or updated to comply with these standards.

(3) Temporary structures, including tents, vehicles and/or trailers of less than 10,000 pound gross carrying capacity, and buildings, structures, vehicles, or trailers not approved by the Local Fire Authority and the Office of State Fire Marshal shall not be used as Wholesale Sites.

(4) Security for storage facilities shall be provided by construction and maintenance of a solid or chain-link fence, at least six feet high with locking gates, that surrounds the facility. Security may be provided by an alternative means only if first approved by the Local Fire Authority.

(5) Smoking, other ignition sources, or the use of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks shall not be allowed within 100 feet of the storage or sales facilities.

Publications: Publication(s) referenced are available from the agency.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-

2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 8-2002, f. & cert. ef. 10-4-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0545

Sales and Records - General

(1) All Individuals involved in Wholesale Operations shall be at least 18 years of age. See OAR 837-012-0555(5) and (6).

(2) The Manager and Sales Representatives of the Wholesale Operations, while not required to be present at all times the site is open for business shall be located at the Wholesale Site.

(3) A copy of the Wholesale Permit shall be posted in an area readily visible to all Individuals entering the sales facility.

(4) Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks may be displayed in the sales facility in accordance with the following requirements:

(a) 1.3G Fireworks shall not be displayed;

(b) 1.4G Fireworks may be displayed. Only one of each type of Firework shall be displayed unless multiples of one type of Firework are contained in a single package. In that case, only the smallest available package shall be displayed and in accordance with Local Fire Authority and Office of State Fire Marshal requirements.

(5) All sales or provision of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, including donation, by Wholesale Permit holders shall be recorded on a form provided by the Office of State Fire Marshal or, for sales of 1.3G Fireworks, the BATFE form P5400.4. Sales or provision of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks may be recorded on an alternative form if approved, in writing, by the Office of State Fire Marshal or the BATFE.

(6) The records described in subsection (5) of this rule shall include, at a minimum:

(a) The name, address, and license and/or permit number, if required, of the Person to whom the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are being sold or otherwise provided, including the state that issued the license and/or permit, the date of issuance and the expiration date of the license and/or permit;

(b) The address, including street number, city and state, and telephone number of the destination for the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks;

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- (c) The permit number of the Wholesale Permit holder, including the date of issuance and expiration date; and
- (d) A list of the types, trade names and quantity of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks sold or otherwise provided.
- (7) The record form described under subsection (5) of this rule shall be completed in full by the Wholesale Permit holder and signed by the Person purchasing or obtaining the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.
- (8) All records described under subsection (5) of this rule, whether originals or copies, shall be clear, legible and accurate.
- (9) Records described under subsection (5) of this rule shall be maintained at the Wholesale Site. Records shall be retained for five years from the date of sale or provision. Upon request, records shall be immediately provided to the Local Fire Authority, law enforcement authority or representative of the Office of State Fire Marshal.
- (10) Wholesale Permit holders shall maintain at the Wholesale Site at all times a list of all employees involved in the Wholesale Operations, including their names, addresses, phone numbers (including home), driver's license numbers, and birth dates. Upon request a legible copy of the list shall be provided immediately to the Office of State Fire Marshal.
- (11) Wholesale Permit holders shall maintain at the Wholesale Site at all times a list of all vehicles used to transport Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, including year, make, model, license number and lease agreement, if applicable. A legible copy of the list shall be provided immediately to the Office of State Fire Marshal, upon request.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0550

Sales to Out-of-State Residents by In-State Wholesalers

- (1) In addition to any other requirements set forth in these rules, the sale or provision by any other means, of Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks to out-of-state

Residents shall comply with the laws of the state where the Person to whom the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are to be sold or provided resides and the laws of the state where the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are to be transported or shipped, if the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are to be transported or shipped to a state other than where the Person resides.

- (2) The Person to whom the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are sold or otherwise provided shall present to the Wholesale Permit holder for inspection, at the time of sale or provision, the original or a certified copy of the Person's valid license and/or permit when such license and/or permit is required by the laws of the other state.

- (3) The Person to whom the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are sold or otherwise provided shall present to the Wholesaler for inspection, at the time of sale or provision, proof of the Person's identity. Such proof shall be an official, signed and sealed photo-identification card, such as a driver's license issued by the Person's state of Residence or Domicile.

- (4) Wholesale Permit holders with Wholesale Sites located 50 miles or less from the borders of the State of Oregon, shall make a good faith effort to determine if customers are Oregon Residents or out-of-state Residents.

- (5) Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks shall not be sold or otherwise provided to out-of-state Residents whose state of Residence prohibits the sale, provision, purchase, possession, or use of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks. Exception: This shall not apply to an out-of-state resident that has applied for and been granted a permit pursuant to ORS 480.110 through 480.165 and OAR Chapter 837, Division 12.

Stat. Auth.: ORS 476, ORS 478 & ORS 480

Stats. Implemented: ORS 480.110 - ORS 480.165
Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02

837-012-0555

Prohibited Acts and Limitations

- (1) Wholesale Permit holders shall not create, maintain, or allow the existence of a fire hazard at any location under their control where Fireworks,

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Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are stored, transported, sold, or used.

(2) No Wholesale Permit holder shall Sell or provide by any other means, including donation:

(a) Fireworks or Public Display Fireworks to any Individual under 21 years of age;

(b) Retail Fireworks or Agricultural Fireworks to any Individual under 18 years of age if the sale or provision of Retail Fireworks or Agricultural Fireworks is to an Individual in Oregon;

(c) Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks to any Person who does not possess a valid permit for such Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks issued by the Office of State Fire Marshal, or if required, a valid license and/or permit issued by the equivalent agency in the Person's state of Residence or the state of destination for the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks;

(d) Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks which have been altered in any manner.

(3) No Person who has been convicted of a violation of ORS 480.110 through 480.165 or OAR Chapter 837, Division 12, or who has had any Fireworks permit or operator certificate suspended, denied or revoked, shall participate in any manner in Wholesale Operations, for a period not to exceed three years.

(4) A Wholesale Permit holder shall not employ, or have direct business ties with, any Person whose Wholesale or Retail Fireworks Permit or operator certificate is revoked or suspended.

(5) No Individual under 18 years of age shall participate in any manner in Wholesale Operations involving Fireworks, Retail Fireworks, or Agricultural Fireworks.

(6) No Individual under 21 years of age shall participate in any manner in Wholesale Operations involving Public Display Fireworks.

(7) A Wholesale Permit holder shall not fill out, complete or submit a general, limited, or special effects public display permit, retail permit, or agricultural use permit previously filled out or completed by a different Wholesaler unless the Wholesale Permit holder has applied for and received approval from the Office of State Fire Marshal to do so.

(8) Wholesale Permit holders shall not sell, provide, ship, transport, keep, offer for sale, expose for sale, possess, use, explode or have exploded any Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks that have not been approved, certified or listed for transport by the

United States Department of Transportation and/or the United States Consumer Product Safety Commission, or if the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks do not have a United States Bureau of Explosives Temporary Transfer Permit.

(9) A Wholesale Permit or permit number that has expired or has not been issued, shall not authorize the purchase, use, discharge, transportation, storage, possession, sale or provision by any other means, including donation, of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(10) Every Person who knows of, engages in, allows, or is otherwise a party to, Wholesale Operations not in conformance with ORS 480.110 through 480.165 and OAR Chapter 837, Division 12, may be subject to denial, revocation, or suspension of the Person's Fireworks permit or operator certificate issued by the Office of State Fire Marshal, and/or a civil penalty.

(11) No Person shall purchase or otherwise obtain, possess, use, discharge, transport, offer for sale, sell, transfer or otherwise provide Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks without first applying for and obtaining the appropriate permit issued by the Office of State Fire Marshal pursuant to ORS 480.110 through 480.165 and OAR Chapter 837, Division 12.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 1-2005(Temp), f. & cert. ef. 1-13-05 thru 7-11-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05

837-012-0560

Civil and Criminal Enforcement Actions

(1) The Office of State Fire Marshal, Local Fire Authority, or law enforcement authority may confiscate, remove or have removed any Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks offered for sale, sold, provided, transported, purchased or otherwise obtained, stored, possessed, used or discharged in violation of ORS 480.110 through 480.165 or OAR Chapter 837, Division 12.

(2) The Wholesale Permit holder, or any other Person responsible for the violation(s), shall be responsible for payment of the agency's costs in confiscating or removing any Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks pursuant to subsection (1) of this rule.

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(3) Upon finding a violation, the Office of State Fire Marshal may order that any confiscated Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks be:

(a) Returned to the manufacturer of the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural fireworks; or

(b) Disposed of in any manner approved by the Office of State Fire Marshal, including destruction of the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

Stat. Auth.: ORS 476, ORS 478 & ORS 480

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02

837-012-0565

Transportation

(1) All shipments of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks within or into Oregon, or from Oregon for delivery to another state shall be transported only by Persons who comply with all applicable United States Department of Transportation requirements and any other federal, state, or local laws, rules, or regulations pertaining to the transportation of Fireworks.

(2) All Persons engaged in the transportation of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks within, into or out of Oregon shall verify that the outside of all Cartons, Containers or Cases, containing such Fireworks and any accompanying documentation, are marked with all the information required under OAR 837-012-0525(13) and (14).

(3) Wholesale Permit holders shall not sell or provide Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks to any Person for transport when the permit holder knows or should know that the Person cannot or will not transport such Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks in accordance with United States Department of Transportation requirements or any other applicable federal, state or local laws, rules or regulations.

(4) Common carriers shall immediately notify, verbally or in writing, the Local Fire Authority or the Office of State Fire Marshal of all shipments of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks to be delivered within or into Oregon.

(5) Common carriers of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks

shipments to be delivered to Persons in Oregon shall hold for at least 24 hours, or until released by the Local Fire Authority or the Office of State Fire Marshal, all such shipments. Such shipments shall be subject to examination by the Local Fire Authority and/or the Office of State Fire Marshal to determine compliance with all applicable federal, state and local laws, rules, and regulations pertaining to Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks. If necessary, the Consumer Product Safety Commission, United States Customs, the United States Department of Transportation and/or the Oregon Department of Transportation may be contacted for assistance.

Stat. Auth.: ORS 476, ORS 478 & ORS 480

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02

837-012-0570

Hazardous Materials Reporting for Wholesalers with Oregon Storage Sites

All Persons possessing more than ten pounds of 1.3G Fireworks or 1.4G Fireworks, as classified by the United States Department of Transportation, must annually complete the Hazardous Substance Survey pursuant to ORS 453.307 to 453.372 and OAR Chapter 837, Division 85. Contact the Office of State Fire Marshal for survey forms and instructions.

Stat. Auth.: ORS 476, ORS 478 & ORS 480

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02