

The Oregon Administrative Rules contain OARs filed through February 15, 2008

DEPARTMENT OF OREGON STATE POLICE, OFFICE OF STATE FIRE MARSHAL

**DIVISION 45  
SMOKE ALARMS AND SMOKE DETECTORS**

**837-045-0040**

**Purpose and Scope**

The purpose of these rules is to establish safety requirements for the installation and maintenance of smoke alarms and smoke detectors in existing buildings, and to establish standards and procedures for the enforcement of those requirements, for the protection of Oregon residents from fire.

Stat. Auth.: ORS 479.255 & ORS 479.295

Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

**837-045-0045**

**Definitions**

(1) "Approved Sprinkler Fire Suppression System" means a fire suppression system:

(a) Constructed in accordance with the National Fire Protection Association (NFPA) Standard 13 or 13R as referenced in the State Building Code under OAR 918-460-0010 in effect on October 1, 2000; and

(b) Inspected and approved by the building official; and

(c) Inspected and certified annually by the Authority Having Jurisdiction as being in compliance with NFPA Standard 25 (1998 ed.)

(2) "Efficiency Dwelling Unit" means a dwelling unit containing only one habitable room.

(3) "Formal Hearing" means a proceeding before a hearings officer conducted pursuant to the Administrative Procedures Act (APA), ORS 183.413 to 183.470.

(4) "Hotel" as defined in ORS 479.250 includes, but is not limited to: Hotels, Motels, Auto Courts, Motor Inns and all similar occupancies by any other name (i.e., School Dormitories, Fraternities, Sororities, and any other similar buildings) with six or more sleeping/guestrooms for non-family members that are rented, hired out or made available on a regular basis for sleeping purposes but are not used as a primary residence.

(5) "Informal Conference" means a meeting between the party(ies) and the Office of State Fire Marshal, prior to a formal hearing, that may include a discussion about whether a basis exists for informal disposition of a contested case by stipulation, agreed settlement, consent order or other means.

(6) "Ionization Smoke Detection" means the principle of using a small amount of radioactive material to ionize the air between two differentially charged electrodes to sense the presence of smoke particles.

(7) "Local Fire Authority" means persons described in ORS 476.060(1).

(8) "Lodging House" as defined in ORS 479.250 includes, but is not limited to: School Dormitories, Fraternities, Sororities, Youth Camps and Private Dwellings that have five or less sleeping/guestrooms that are made available for sleeping purposes in exchange for compensation in money, goods, labor, or other tender, but that are not used as a primary residence.

(9) "Nationally Recognized Testing Laboratory" means an accredited laboratory listed by the International Conference of Building Officials Evaluation Services or an equivalent laboratory approved by the Authority Having Jurisdiction.

(10) "Owner" includes a duly authorized agent or attorney, a purchaser, devisee, fiduciary, lessor or sublessor and/or a person having a vested or contingent interest in the property in question.

(11) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations or subdivisions.

(12) "Photoelectric Smoke Detection" means the principle of utilizing a light source and a photosensitive sensor to detect particles of combustion. Photoelectric smoke detection incorporates either a "light obscuration" or a "light scattering" method of operation.

(13) "Request for Hearing" means a written request for a formal hearing to contest the assessment of a civil penalty.

(14) "Smoke Alarm for Hearing Impaired Persons" means a device that:

- (a) Meets the definition in ORS 479.250(1);
- (b) Causes a strobe to emit a white light when activated; and
- (c) Is listed by a nationally recognized testing laboratory for the purpose of alerting hearing impaired persons in the event of a fire.

(15) "Smoke Detector for Hearing Impaired Persons" means a device that:

- (a) Meets the definition in ORS 479.250(2);
- (b) Causes a strobe to emit a white light when activated; and
- (c) Is listed by a nationally recognized testing laboratory for the purpose of alerting hearing impaired persons in the event of a fire.

(16) "State Fire Marshal" means the State Fire Marshal appointed under ORS 476.020 and the Chief Deputy State Fire Marshal and Deputy State Fire Marshals appointed by the State Fire Marshal under ORS 476.040.

(17) "Ten-Year Smoke Alarm Battery" means a battery power source that is warranted by the battery manufacturer to be free from defects in materials and workmanship for a period of at least ten (10) years when used in an ionization smoke alarm that:

- (a) Is listed by a nationally recognized testing laboratory; and
- (b) Has been approved by the nationally recognized testing laboratory for use with a ten-year battery.

Stat. Auth.: ORS 476.040, ORS 476.060, ORS 479.250 – ORS 479.300 & ORS 479.990

Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

### **837-045-0050**

#### **Installation and Location of Smoke Alarms and Smoke Detectors**

(1) All smoke alarms or smoke detectors shall be installed and located in accordance with the listing and manufacturer's instructions and OAR 837-045-0045 through 837-045-0060.

(2) Dwelling Units:

(a) Smoke alarms and smoke detectors in dwelling units shall be installed in each sleeping room as per the applicable requirements of the State Building Code at the time of construction and in the corridor or area giving access to sleeping areas according to the manufacturer's instructions. Where sleeping areas are located on an upper level, the smoke alarm or smoke detector shall be installed in an accessible location as close as practical to the center of the ceiling directly over the stairway. Where sleeping areas are widely separated (i.e., on different levels or opposite ends of the dwelling unit) and/or where a single smoke alarm or smoke detector will not adequately service all sleeping areas, a smoke alarm or smoke detector shall be installed adjacent to each sleeping area.

(b) When activated, the installed smoke alarm(s) or smoke detector(s) shall produce an alarm sound audible in the dwelling unit, guestroom(s) and sleeping area(s).

(3) Efficiency Dwelling Units, Lodging Houses and Hotels:

(a) In an efficiency dwelling unit, lodging house guestroom or hotel room or suite, the smoke alarm or smoke detector shall be installed on the ceiling or a wall of the main room or sleeping area.

(b) When activated, the smoke alarm(s) or smoke detector(s) shall produce an alarm sound audible in the main room and sleeping area(s).

Stat. Auth.: ORS 479.255 & ORS 479.295

Stats. Implemented: ORS 479.250 – ORS 479.300

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00; OSFM 5-2002, f. 3-26-02, cert. ef. 4-1-02

### **837-045-0055**

#### **Hotels with Approved Sprinkler Fire Suppression Systems**

Hotels that have installed an approved sprinkler fire suppression system are exempt from the requirements of ORS 479.257(1).

Stat. Auth.: ORS 479.257 & ORS 479.295

Stats. Implemented: ORS 479.250 – ORS 479.300

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

### **837-045-0060**

#### **Power Source**

(1) The power supply of a smoke alarm shall be a commercial power source, an integral battery or batteries or a combination of both. The power supply for a smoke detector shall be a commercial power source.

(2) When a smoke alarm or smoke detector is served from a commercial power source, the wiring shall be permanent and shall not have a disconnecting switch other than that required for over current protection.

(3) When a line cord and plug is used, it shall be plugged directly into a fixed outlet box and the plug shall be secured by a device that cannot be removed without the use of a tool.

(4) The owner of a dwelling unit, lodging house or hotel shall obtain a permit from the local building official for the installation of a 110-volt smoke alarm or a low-voltage smoke detector connected to a fire alarm control panel.

Stat. Auth.: ORS 479.255 & ORS 479.295

Stats. Implemented: ORS 479.250 – ORS 479.300

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

**837-045-0065**

**Smoke Alarms for Hearing Impaired Persons or Smoke Detectors for Hearing Impaired Persons**

(1) Smoke alarms for hearing impaired persons or smoke detectors for hearing impaired persons shall meet:

(a) The requirements of ORS 479.250 to 479.300, except 479.297;

(b) The applicable requirements of the State Building Code under OAR 918-460-0010 in effect on October 1, 2000; and

(c) OAR 837-045-0040 to 837-045-0110.

(2) If a hotel requires a guest to pay a refundable deposit for providing a smoke alarm for hearing impaired persons, the amount of the deposit shall not exceed 50 percent of the purchase price of the smoke alarm.

(3) A hotel shall provide a printed notice pursuant to ORS 479.255(5) and in accordance with the following requirements:

(a) The notice shall be printed or typed and the printed or typed wording shall be a contrasting color to the background color of the notice;

(b) The notice shall be a contrasting color to the surface on which the notice is mounted;

(c) The notice shall state, "Smoke alarms or smoke detectors for hearing impaired persons are available upon request" or other appropriate wording as may be specifically approved by the State Fire Marshal or local fire authority.

(d) If the notice is posted at the place of registration, the notice shall be posted in such a manner that it is readily visible and legible from the public side of the registration desk or counter.

Stat. Auth.: ORS 479.255 & ORS 479.295

Stats. Implemented: ORS 479.250 – 479.300

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

**837-045-0070**

**Issuance of Notice of Deficiency Citations**

(1) The State Fire Marshal or local fire authority may issue a notice of deficiency citation for a violation under ORS 479.990(6) or the rules adopted thereto.

(2) Each separate instance of non-compliance under ORS 479.990(6) or the rules adopted thereto shall be considered a separate violation.

(3) A notice of deficiency citation may be issued for each separate violation under ORS 479.990(6).

(4) A notice of deficiency citation shall be on a form approved by the Office of State Fire Marshal.

(5) For violations of ORS 479.255, 479.260, 479.270 or 479.280 or the rules adopted thereto, the State Fire Marshal or local fire authority shall present a copy of the notice of deficiency citation to the owner of the dwelling unit, lodging house or hotel.

(6) For violations of ORS 479.297, or the rules adopted thereto, the State Fire Marshal or local fire authority shall present a copy of the notice of deficiency citation to the owner or employee selling a smoke alarm in violation of ORS 479.297.

(7) For violations of ORS 479.300, or the rules adopted thereto, the State Fire Marshal or local fire authority shall present a copy of the notice of deficiency citation to the person believed to have removed or tampered with a properly functioning smoke alarm or smoke detector.

(8) The State Fire Marshal or local fire authority shall present a copy of the notice of deficiency citation by:

(a) Personal service;

(b) Service by certified mail; or

(c) Service by regular mail.

(9) Upon presenting a copy of the notice of deficiency citation under OAR 837-045-0070(5) through (8), the State Fire Marshal or local fire authority shall retain all remaining copies of the notice of deficiency citation until the re-inspection of the premises.

(10) After 10 days have passed from the date the notice of deficiency citation was issued, the State Fire Marshal or local fire authority shall:

(a) Re-inspect the premises; and

(b) Complete the "Re-Inspection of Premises" section of the notice of deficiency citation.

(11) Issuance of a notice of deficiency citation under this rule shall have no effect on the use of a uniform citation under ORS chapter 153 for offenses subject to ORS chapter 153.

Stat. Auth.: ORS 479.280, ORS 479.295 & ORS 479.990

Stats. Implemented: ORS 479.250 – 479.300 & 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0075**

##### **Forwarding Notice of Deficiency Citation to the Office of State Fire Marshal**

(1) Upon re-inspection of the premises and completion of the notice of deficiency citation under OAR 837-045-0070(10), the State Fire Marshal or local fire authority shall:

- (a) Retain a copy of the notice of deficiency citation for its records; and
- (b) Forward the original notice of deficiency citation to the Office of State Fire Marshal within ten days of the re-inspection.

(2) If applicable, each notice of deficiency citation forwarded to the Office of State Fire Marshal shall be accompanied by a copy of the issuing authority's written report, inspection sheets, Fire District Property Report, or evidence receipt – Form #920-021-06, or any other forms that the issuing authority completes during the process of issuing notice of deficiency citations and/or re-inspecting the premises.

Stat. Auth.: ORS 479.280, ORS 479.295 & ORS 479.990

Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0080**

##### **Assessment of Civil Penalty and Issuance of Notice of Civil Penalty**

(1) Upon receipt and review of a notice of deficiency citation and, if applicable, any accompanying documentation, the Office of State Fire Marshal may assess a civil penalty(ies).

(2) The Office of State Fire Marshal shall assess a penalty amount determined by the Office of State Fire Marshal to be appropriate for the particular violation(s). In determining an appropriate penalty amount, or whether to assess a penalty amount at all, the Office of State Fire Marshal may use the schedule set forth in OAR 837-045-0085 as a guideline and may consider the following criteria:

- (a) The severity of the violation(s) or its impact on public safety;
- (b) The number of similar or related violations;
- (c) Whether the violation(s) was willful or intentional;
- (d) The prior history of penalties imposed by the Office of State Fire Marshal against the person;
- (e) Other circumstances determined by the office of State Fire Marshal to be applicable to the particular violation(s).

(3) Upon assessment of the civil penalty(ies), the Office of State Fire Marshal shall issue a notice of civil penalty pursuant to the provisions of ORS 183.090.

(4) The Office of State Fire Marshal shall:

- (a) Retain the original notice of civil penalty;
- (b) Serve a copy of the notice of civil penalty pursuant to ORS 183.090.

(5) The Office of State Fire Marshal may mail a copy of the notice of civil penalty to the authority that issued the notice of deficiency citation.

(6) If the Office of State Fire Marshal does not assess a civil penalty, the Office of State Fire Marshal may:

- (a) Mail a certified letter to the person against whom the notice of deficiency citation was issued that notifies the person that the Office of State Fire Marshal will not assess a civil penalty for the violation(s) described in the notice of deficiency citation; and

(b) Mail a copy of the letter to the authority that issued the notice of deficiency citation.

Stat. Auth.: ORS 479.280, ORS 479.295 & ORS 479.990

Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0085**

##### **Schedule of Civil Penalties**

(1) The Office of State Fire Marshal adopts this civil penalty schedule. As used in this rule, a violation will be considered a second or subsequent violation if the person against whom the civil penalty is assessed was notified verbally or in writing within three previous years of the occurrence of the same or a substantially similar violation, and was given an opportunity for hearing on the previous alleged violation.

(2) Failure to comply with any provisions of the statutes cited in ORS 479.990(6), or the rules adopted thereto, may be punishable by a civil penalty as follows:

- (a) For first violation: \$50;
- (b) For second violation: \$100;
- (c) For third or subsequent violation(s): \$250.

Stat. Auth.: ORS 479.295 & ORS 479.990  
Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990  
Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0090**

##### **Contested Cases**

- (1) A person may request a hearing regarding the assessment by the Office of State Fire Marshal of a civil penalty, subject to the requirements of ORS 183.090.
- (2) A request for hearing shall be timely filed.
- (3) A request for hearing is timely filed when the request is postmarked or received at the Office of State Fire Marshal within 20 days from the date of service of the notice of civil penalty.
- (4) The 20-day deadline shall be computed by excluding the date of the notice of civil penalty and including the 20th day. If the 20th day falls upon any legal holiday, Saturday or Sunday, the 20th day shall be the following work day.
- (5) If a request for hearing is not timely filed under sections (3) and (4) of this rule, the person shall have waived the right to a contested case under ORS chapter 183.090.
- (6) A person may write to or call the Office of State Fire Marshal to informally discuss the assessment of a civil penalty; however, an informal communication shall not extend the 20-day deadline by which a request for hearing must be made.

(7) A contested case may include:

- (a) An informal conference; and/or
- (b) A formal hearing.

(8) A contested case shall be conducted pursuant to the provisions of ORS 183.090 and the rules adopted thereto.

Stat. Auth.: ORS 479.295 & ORS 479.990  
Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990  
Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0095**

##### **Informal Conference**

- (1) The Office of State Fire Marshal may provide an opportunity for an informal conference.
- (2) A request for an informal conference may be made verbally or in writing; and shall:
  - (a) Be made or addressed to the Office of State Fire Marshal; and
  - (b) Clearly state the issue(s) to be discussed.
- (3) If the Office of State Fire Marshal and the party(ies) agree, an informal conference may be held by telephone.
- (4) After an informal conference, the Office of State Fire Marshal may amend, withdraw, or reduce a civil penalty. Such action shall be taken in accordance with the Administrative Procedures Act (APA), ORS 183.025 to 183.725, and the rules adopted thereto.

Stat. Auth.: ORS 479.295 & ORS 479.990  
Stats. Implemented: ORS 479.250 – 479.300 & 479.990  
Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0100**

##### **Formal Hearing**

- (1) A person may file a written request for hearing before or after an informal conference, at any time before the 20-day deadline for filing such a request expires.
- (2) The Office of State Fire Marshal shall arrange for a hearing officer to conduct the formal hearing.
- (3) The Office of State Fire Marshal shall set a date, time, and location for the formal hearing.
- (4) A formal hearing shall be conducted pursuant to ORS 183.090.
- (5) The Office of State Fire Marshal may mail certified a copy of the final order to the fire authority that issued the notice of deficiency citation within ten days of signing of the final order.

Stat. Auth.: ORS 479.295 & ORS 479.990  
Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990  
Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

#### **837-045-0105**

##### **Adjustment of Civil Penalty**

- (1) At any time during a contested case, and prior to the issuance of a final order, the Office of State Fire Marshal may mitigate the civil penalty amount and may agree to payment of an amount less than that stated in the notice of civil penalty, after review of:
  - (a) The criteria listed in OAR 837-045-0080(2); and
  - (b) Any explanatory information provided to the Office of State Fire Marshal.

(2) If the Office of State Fire Marshal adjusts a civil penalty, the Office of State Fire Marshal shall issue an amended notice of civil penalty.

(3) The Office of State Fire Marshal shall:

(a) Retain the original amended notice of civil penalty;

(b) Serve a copy of the amended notice of civil penalty on the person against whom the civil penalty was assessed.

(4) The Office of State Fire Marshal may mail a copy of the amended notice of civil penalty to the authority that issued the notice of deficiency citation.

Stat. Auth.: ORS 479.295 & ORS 479.990

Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

**837-045-0110**

**Payment of Civil Penalty**

A civil penalty shall be paid to the Office of State Fire Marshal within ten days after an order assessing a civil penalty becomes final by operation of law or on an appeal.

Stat. Auth.: ORS 479.295 & ORS 479.990

Stats. Implemented: ORS 479.250 – ORS 479.300 & ORS 479.990

Hist.: OSFM 10-2000, f. 9-14-00, cert. ef. 10-1-00

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