

Chapter 480

1987 REPLACEMENT PART

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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 employes 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 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 Liability of user for non-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 480 160, 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, mimes, 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 theatres 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 480 160, 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 480 160 [Amended by 1983 c 788 §1, 1985 c 789 §1]

480.122 Use for repelling birds or animals allowed. (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 provi-

sions of ORS 480 110 to 480 160, 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 (1) Any person who desires to sell cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flutter 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 480 160 and any rules promulgated pursuant thereto. A fee may be charged for the permit. 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, as defined by the legislatively approved budget for the State Fire Marshal and as 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 (19mm) 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 hand-held.

(d) "Flutter 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 hand-held.

(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 (12.5mm) 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]

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 and subsequently shall be adjusted to finance the administrative expenses incurred under this section, as defined by the legislatively approved budget for the State Fire Marshal, as 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]

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; bond. (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 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]

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 480 160

(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 defen-

dants 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 thereon of state law; local enforcement authority. (1) Nothing in ORS 480 110 to 480 160, 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 480 160.

(2) For the purposes of enforcing ORS 480 110 to 480 160 in an area exempt under ORS 476 030 (4) 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 480 160.

(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]

480 170 [Repealed by 1987 c 158 §107]

MANUFACTURE, SALE, POSSESSION AND TRANSFER OF EXPLOSIVES

480.200 Definitions for ORS 480.200 to 480.280. As used in ORS 480 200 to 480 275 and 480 280 (2) unless the context requires otherwise:

(1) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitro-jelly, but excluding fireworks as defined by ORS 480 110 (1), black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(2) "Fire marshal" means the State Fire Marshal.

(3) "Issuing authority" means the State Fire Marshal or an assistant appointed by the fire marshal under ORS 480 280 (2).

(4) "Small arms ammunition" means a shotgun, rifle, pistol or revolver cartridge.

(5) "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]

480.205 Application. ORS 480 200 to 480 275, 480 280 (2) 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 fire or police department of a public 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.

(3) The possession, sale, transfer or manufacture of an explosive by a person acting in accordance with the provisions of any applicable federal law or regulation that provides substantially the same requirements as the comparable provisions of ORS 480 200 to 480 275 and 480 280 (2) [1971 c 518 §2 1987 c 158 §108]

480.210 Certificate of possession required; exceptions; display of certificate

upon demand; defenses. (1) Except as otherwise provided by ORS 480 255, a person may not have an explosive in possession on or after September 9, 1971, 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 a manufacturer of explosives or a dealer in explosives

(2) A person in possession of an explosive shall display a certificate of possession upon the demand of an issuing authority, a magistrate or a peace officer 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 paragraph (a) of subsection (1) of this section that was valid at the time of the arrest of the person, or

(b) Proof that the person is a manufacturer in explosives, a dealer in explosives, the authorized agent of such a manufacturer or dealer or a transferee under ORS 480 255 at the time of arrest [1971 c 518 §3]

480.215 Transfer of explosives limited.

(1) Except as otherwise provided by ORS 480 255, possession of an explosive shall not be transferred unless

(a) The transferee holds a certificate of possession under ORS 480 235 and the certificate is valid at the time of the transfer, or

(b) The transferee is a manufacturer of explosives or a dealer in explosives, or

(c) The transferee is a consignee of explosives which have been transported under the jurisdiction of or in conformity with regulations adopted by the United States Department of Transportation

(2) Notwithstanding ORS 480 255 and subsection (1) of this section, a person shall not knowingly transfer possession of any explosive to anyone whom the transferor knows lacks any of those characteristics listed under ORS 480 225 [1971 c 518 §4, 1981 c 635 §2]

480.220 Manufacture or possession of destructive device with intent to use unlawfully prohibited; when intent presumed. (1) A person shall not assemble, produce or otherwise manufacture or possess a destructive device with the intent to use the destructive device or knowing that some other person intends to use the destructive device unlawfully against the person or property of another

(2) The possession of a destructive device by a person while committing or attempting or threatening to commit a felony or a breach of the peace or an act of violence against the person or property of another is presumptive evidence that the person possesses the destructive device in violation of subsection (1) of this section

(3) As used in this section, "destructive device" has the same meaning given in ORS 166 360 (2) [1971 c 518 §5]

480.225 Eligibility for certificate of possession. A person is eligible for a certificate of possession under ORS 480 235 if

(1) The person has not been convicted of a misdemeanor involving the use or threatened use of force, violence or a dangerous or deadly weapon. 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

(2)(a) The person has not been convicted of, and is not under indictment for, any felony

(b) Notwithstanding paragraph (a) of this subsection, a person convicted of a felony not involving the use or threatened use of force, violence or a dangerous weapon is eligible under this section following the expiration of 10 years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction

(3) The person is not a fugitive from justice

(4) The person has not been adjudged to be mentally ill or mentally deficient pursuant to ORS chapter 426 or 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

(5) The person is at least 21 years of age

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

(7)(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 paragraph (a) of this subsection, 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 [1971 c 518 §6, 1981 c 635 §3, 1983 c 100 §4, 1985 c 362 §1]

480.230 Application for certificate of possession; fee. A person desiring a certificate of possession shall apply in person, or if such person is other than an individual, through its authorized representative or agent. The applicant shall provide at the time of such application

(1) The applicant's name and address and, if the applicant is other than an individual, the name and address of the individual completing the application and the individual's relationship to or position with the applicant,

(2) If the applicant is an individual, the individual's age,

(3) A statement by the applicant that the applicant is eligible for a certificate of possession under ORS 480 225,

(4) Any other information that the issuing authority may require to readily identify the applicant,

(5) A verification, signed by the applicant or the individual completing the application, that the information contained in the application is true, and

(6) A nonrefundable application fee of \$15 for a three-year certificate or \$7.50 for a 90-day certificate [1971 c 518 §7, 1983 c 100 §2]

480.235 Waiting period for issuance of certificate; investigation of applicant; term; assignment or transfer prohibited; records required. (1) A certificate of possession may not be issued before the expiration of seven 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, whichever occurs first

(2) The issuing authority shall investigate the qualifications of the applicant for a certificate of possession. Unless the issuing authority finds that the applicant is ineligible under ORS 480 225, the authority shall issue a certificate of possession to the applicant at the end of the seven-day period or at the conclusion of the investigation, whichever occurs first

(3) A three-year certificate of possession is valid for three years from the date of issuance or until suspended or revoked pursuant to ORS 480 270, whichever date is earlier. A 90-day certificate of possession is valid for 90 days from the date of issuance or until suspended or revoked pursuant to ORS 480 270, whichever date is earlier

(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 or magistrate or a peace officer of this state [1971 c 518 §8, 1981 c 635 §4, 1983 c 100 §5]

480 240 [1971 c 518 §11, repealed by 1983 c 100 §1]

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 Transfer of explosives to person not holding certificate of possession; transfer receipts. (1) Except as prohibited by ORS 480 215 (2), possession of an explosive may be transferred to an individual who does not hold a valid certificate of possession issued to the individual under ORS 480 235, if

(a) The individual is an employe, agent, contractor or subcontractor of the transferor of the explosive, and

(b) The transferor holds a valid certificate of possession issued to the transferor under ORS 480 235 or is a manufacturer of explosives or a dealer in explosives, and

(c) The transferor complies with subsection (2) of this section

(2) At the time of the transfer of possession of the explosive, the transferor of the explosive shall complete, upon forms supplied by the fire marshal, a transfer receipt in duplicate. Each transfer receipt shall include

(a) The name, address and signature of the transferor of the explosive,

(b) The name and signature of the transferee of the explosive and the transferee's relationship to or position with the transferor,

(c) The location where possession of the explosive was transferred and the location where the explosive will be delivered, and

(d) The type and quantity of the explosive transferred

(3) The transferee of the explosive shall keep the duplicate copy of the transfer receipt on the transferee's person at all times while the explosive is in the transferee's possession. The transferee shall display the copy of the transfer receipt upon the demand of an issuing authority, a magistrate or a peace officer of this state [1971 c 518 §14]

480 260 Recording transfers of explosives by dealers; transfer register;

examination of register. At the time of a transfer of the possession of an explosive by a dealer in explosives

(1) The dealer shall enter in duplicate in a transfer register supplied by the fire marshal

(a) The date of the transfer,

(b) The name of the dealer and address and the number of the certificate of registration as a dealer in explosives,

(c) The name, address and signature of the transferee and, if the transferee is other than an individual, the name, address and signature of the individual receiving possession of the explosive and the representative capacity with the transferee,

(d) The number of the certificate of possession issued to the transferee, and

(e) The type and quantity of the explosive transferred

(2) The transferee shall show the certificate of possession to the dealer

(3) The dealer shall deliver the copy of the entry in the transfer register to the individual receiving possession of the explosive and retain the original of the entry in the transfer register

(4) A dealer in explosives shall keep each transfer register maintained by the dealer pursuant to subsections (1), (2) and (3) of this section for a period of three years from the date of the last entry therein and permit an issuing authority or any peace officer of this state to examine the entries in the transfer register upon request [1971 c 518 §§16 17]

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 immediately to an issuing authority or a peace officer of this state. The report shall include the type and quantity of the explosive [1971 c 518 §18]

480.270 Revocation or suspension for violations; surrender of certificate. (1) An issuing authority may suspend or revoke a certificate of possession or a certificate of registration as a manufacturer of explosives or as a dealer in explosives if the issuing authority finds that the person to whom the certificate was issued is ineligible for the certificate under ORS 480 225 or that the person has been convicted of a violation under ORS 480 990 (6)

(2) A certificate 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 was issued shall surrender the suspended or revoked certificate to an issuing authority upon the demand of the issuing authority [1971 c 518 §19 1987 c 158 §109]

480.275 Hearings; notice; representation by counsel; decision; judicial review.

(1) An applicant who has been denied a certificate of possession or a certificate of registration as a manufacturer of explosives or as a dealer in explosives, or a person whose certificate has been suspended or revoked is entitled to be represented by counsel at a hearing before the issuing authority under ORS 183 310 to 183 550. At least 20 days before the date of the hearing the issuing authority shall notify the applicant or certificate holder of the matters to be considered at the hearing. Within 30 days after the date of the hearing, the issuing authority shall send written notice of its decision to the applicant or certificate holder

(2) Within 60 days after the receipt of the written notice of the decision of the issuing authority under subsection (1) of this section, the applicant or certificate holder may seek judicial review of the decision under ORS 183 480, 183 490 and 183 550 [1971 c 518 §20]

480.280 Administration and enforcement by State Fire Marshal; rules and regulations; appointment of assistants. (1) The State Fire Marshal shall administer and enforce ORS 480 200 to 480 275, 480 280 (2) and 480 990 (6) and may, in accordance with the applicable provisions of ORS chapter 183 310 to 183 550, adopt rules and regulations considered to be necessary in carrying out ORS 480 200 to 480.275, 480 280 (2) and 480 990 (6)

(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 fire marshal in the administration and enforcement of this subsection and ORS 480 200 to 480 275, and 480 990 (6) [1971 c 518 §§21, 23 1987 c 158 §110]

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 or 480 255

(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]

REGULATION OF GASOLINE DISPENSING

480.310 Definition of "Class 1 flammable liquids." As used in ORS 480 320 to 480 340, "Class 1 flammable liquids" means liquids with a flash point below 25 degrees Fahrenheit, closed cup tester

480 320 Use of coin-operated or self-service gasoline pumps 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. No owner, operator or employe of any filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail, shall permit any person other than the owner, operator or employe to use or manipulate any pump, hose, pipe or other device for dispensing such liquids into the fuel tank of a motor vehicle or other retail container

480.340 Coin-operated or self-service gasoline pumps prohibited; automatic shut-off devices regulated. No owner, operator or employe of any filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail, shall install or use, or permit the use of, any coin-operated or self-service dispensing device for such liquids. No owner, operator or employe of any filling station, service station, garage or other dispensary where

Class 1 flammable liquids are dispensed at retail, shall install or use, or permit the use of, any device which permits the dispensing of such 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 which has been approved by the State Fire Marshal, and which has a latch-open device as an integral part of the assembly, capable of shutting off the flow of such liquids reliably when the tank is filled or when the nozzle falls or slips from the filling neck of the tank. Such automatic nozzle shall not be used for the dispensing of such liquids unless such owner, operator or employe is in the immediate vicinity of the tank being filled [Amended by 1959 c 73 §2]

LIQUID PETROLEUM GAS

480.410 Definitions. 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 1977 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. (1) No person shall 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) No person shall 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) No person shall 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 employe of an employer who has an LP gas installation license as provided by this section [1957 c 712 §4, 1967 c 417 §27]

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; renewal of licenses; delinquency penalty. (1) The annual fee for the LP gas installation license shall be \$55 each year, 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 annual fee for an LP gas fitter license or an LP gas truck equipment license shall be \$5

(3) All licenses shall be renewed on or before January 15 of each year. Unless revoked or suspended by the State Fire Marshal for failure to comply with the provisions of ORS 480 410 to 480 460, a license shall continue in force from January 15 of one year to January 15 of the succeeding year and shall not be transferable

(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 the amount of the fee

hereby is imposed for such delinquency [1957 c 712 §6, 1967 c 417 §29, 1973 c 832 §15]

480.440 Annual inspection of certain storage tanks. An installation of storage tanks located at dealers' plants and an installation of tanks used for delivery purposes shall be inspected annually. 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]

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 15th 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 \$14 for an installation of a tank of more than 1,000 gallons capacity and \$8 for an installation of a tank with a capacity of 1,000 gallons or less or 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 \$14 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 \$10. 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 15th 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 the amount of the fee hereby is 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 (4) 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 mobile homes, campers, or similar vehicles that are constructed or altered in accordance with applicable rules of

the Building Codes Agency [Amended by 1953 c 225 §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]

480.460 Disposition of fees. All fees received by the State Fire Marshal under ORS 480 200 to 480 280 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 480 665 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 480.665. As used in ORS 480 510 to 480 665, unless the context requires otherwise:

(1) "Agency" means the Building Codes Agency

(2) "Board" means the Board of Boiler Rules created under ORS 480 535

(3) "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 beyond the second valve from the boiler

(4) "Certificate of competency" means a certificate issued under the provisions of ORS 480 565 (3)

(5) "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 480 665 or adopted by the board, under ORS 480 510 to 480 665

(6) "Permit" means a card issued by the agency 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

(7) "Pressure vessel" means containers for the containment of pressure, either internal or exter-

nal. 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

(8) "Related appurtenances" means any equipment instrumental to the safe operation of a boiler or pressure vessel

(9) "Shop inspection" means the inspection and testing, to determine the meeting of minimum safety standards, of boilers and pressure vessels being manufactured or in the process of manufacture 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]

480.520 Purpose of ORS 480 510 to 480.665. The purpose of ORS 480 510 to 480 665 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 480 665 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

(4) For the administration and enforcement of ORS 480 510 to 480 665 by the Building Codes Agency and the board

(5) To defray the cost of administration and the cost of enforcing ORS 480 510 to 480 665 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 480 665 do not apply to

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

(b) Automatic utility hot water heaters, not used for space heating and equipped with an approved safety device and containing only water and which do not exceed 120 gallons in capacity, nor water temperature of 210 degrees F nor pressure of 150 pounds per square inch gauge pressure nor a heat input in excess 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 480 665 and shall be under the jurisdiction of the board

(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, for air service only, 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

(g) Automatic utility hot water heaters used for space heating using the potable system, equipped with an approved safety device and containing only water and which do not exceed 120 gallons in capacity nor water temperature of 210 degrees F nor pressure of 150 pounds per square inch gauge pressure nor a heat input in excess of 200,000 BTU per hour

(2) The following boilers and pressure vessels are exempt from ORS 480 510 to 480 665, 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 not located inside any structure

(e) Pressure vessels, other than those subject to paragraph (f) of subsection (1) of this section 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

(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 paragraph (f) of subsection

(1) or paragraph (e) of subsection (2) 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 480 665 [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]

480.530 Powers and duties of agency.
The Building Codes Agency 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 480 665, 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, the agency 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. 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 480 665 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 480 665 [1961 c 485 §13 1969 c 582 §5 1971 c 753 §59, 1983 c 676 §6]

480 535 Board of Boiler Rules; membership (1) The Governor shall appoint a Board of Boiler Rules which shall formulate and promulgate rules under ORS 480 510 to 480 665 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) Ten persons shall constitute the board, consisting of

(a) One person who is an owner and user or who is a representative and employe 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 employe 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 employe 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 employe 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 a manufacturer, owner or user or who is a representative and employe of a manufacturer, owner or user of nuclear vessels in Oregon,

(i) One person who is a steamfitter, and

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

(3) 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]

480.540 Terms of board members; removal, meetings; compensation and expenses (1) The term of office of a member is four years beginning on the date of appointment. 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 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]

480 545 Adoption and enforcement of rules and minimum safety standards. (1) The board may from time to time, under ORS 183 310 to 183 550, make, amend, promulgate and enforce rules and minimum safety standards to carry out ORS 480 510 to 480 665 and adopt standards for persons performing welding on boilers and pressure vessels

(2) All proceedings in the administration of ORS 480 510 to 480 665 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 establish 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 nation-wide 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) All rules formulated and promulgated by the board under ORS 480 510 to 480 665 shall be submitted to the State Building Code Administrator of the Building Codes Agency. The administrator shall have 15 working days from the receipt of the rules to review them. If the administrator fails to disapprove the rules within the 15-day period, the rules become effective in accordance with their terms and as provided by law. If the administrator disapproves the rules within the 15-day period, the rules immediately shall be returned to the board with the administrator's written objections, and the rules shall not become effective until approved by the administrator [1961 c 485 §7 1969 c 582 §7, 1983 c 676 §9]

480.550 Certain minimum safety standards apply until different rules are adopted; 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 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) Until different rules are adopted, there is adopted as the minimum safety standards for pressure piping 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 (1955), B 31 7 (1968) and B 31 9 (1982) together with the published revisions and interpretations thereof in effect as of January 1, 1983 [1961 c 485 §8, 1969 c 582 §8, 1973 c 830 §3, 1983 c 676 §9a]

480.555 Prohibitions relating to non-conforming vessels. Except as provided in ORS 480 525 (1), no person shall

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

(2) 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

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

(4) 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 [1961 c 485 §9, 1967 c 447 §5, 1969 c 582 §9, 1983 c 676 §10]

480.557 Automatic utility hot water heater equipment requirement. (1) After July 1, 1967, no person shall install an automatic utility hot water heater of the kind described by subsections (2) and (3) of this section unless the heater is equipped with a safety device of a kind approved by the board in accordance with ORS 480 510 to 480 665

(2) Subsection (1) of this section applies to new or used automatic utility hot water heaters, not used for space heating, containing only water

and which do not exceed 120 gallons in capacity, or water temperature of 200 degrees F, or pressure, of 150 pounds per square inch gauge pressure or a heat input in excess of 200,000 BTU per hour

(3) Subsection (1) of this section applies to new or used automatic utility hot water heaters used for space heating using the potable system, equipped with an approved safety device and containing only water and which do not exceed 120 gallons in capacity nor water temperature of 210 degrees F nor pressure of 150 pounds per square inch gauge pressure nor a heat input in excess of 200,000 BTU per hour

(4) After January 1, 1968, no person shall sell or offer for sale in this state any automatic utility hot water heater of the kind described by subsection (2) of this section unless the heater is equipped with a safety device of a kind approved by the board in accordance with ORS 480 510 to 480 665

(5) The requirements established by subsections (1) to (4) of this section are in addition to any standards established by or pursuant to ORS 447 010 to 447 160 or 480 510 to 480 665 [Formerly 447 135, 1987 c 847 §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 480 665, 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, or a boiler used for heating liquid to a pressure in excess of 160 pounds per square inch gauge, shall be annually inspected both internally, where construction permits, and externally while not under pressure and if possible 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, and internally, where construction permits, except that cast iron heating boilers shall be inspected only externally unless the board 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 beyond the second valve from the boiler 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]

480.565 Chief and deputy inspectors; special inspectors. The State Building Code Administrator of the Building Codes Agency 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 either has passed a written examination which shall be confined to questions the answers to which will aid in deter-

mining the fitness and competency of the applicant to inspect boilers and pressure vessels, or who 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

(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 [1961 c 485 §12 1969 c 582 §11, 1971 c 753 §61]

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 480 665 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) 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)

(3) A special inspector is authorized

(a) To inspect all boilers and pressure vessels insured or to be insured by an employer or all pressure vessels operated by an employer, and

(b) When the individual holds a certificate of competency issued pursuant to ORS 480 565 (3)(a), to 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

(4) When a vessel is inspected by a special inspector as provided in paragraph (a) of subsection (3) of 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 Building Codes Agency 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]

480.575 Revocation of certificate of special inspector; reinstatement. (1) A special inspector's certificate of competency may be revoked by the board for incompetency, untrustworthiness or for any wilful falsehood in the special inspector's application or in any inspection report.

(2) No certificate of competency shall be 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) A special inspector whose certificate of competency has been revoked may apply for the reinstatement thereof not less than 90 days after the time of revocation [1961 c 485 §15, 1969 c 582 §13, 1983 c 676 §13]

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 480 665, 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 480 665 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 Building

Codes Agency 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 Building Codes Agency 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 480 665. Suspension of any permit continues in effect until the vessel shall have been made to conform to ORS 480 510 to 480 665 and the permit reissued. However, before suspending or revoking a permit, the Building Codes Agency 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. 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 480 665, 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]

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 Building Codes Agency, and on the same day of each year thereafter in which an inspection is due pursuant to ORS 480 560, the Building Codes Agency may issue or renew a permit before or after an inspection has been made pursuant to ORS 480 510 to 480 665

(2) Permit fees shall be prescribed by the board with approval of the Executive Department, and may be prorated

(3) Maximum permit fees, including inspection fees, shall be determined as follows

- | | |
|--|------|
| (a) Boilers requiring internal inspection | |
| (A) No more than 50 square feet of heating surface | \$45 |
| (B) 51 to 500 square feet of heating surface | \$60 |
| (C) 501 to 1000 square feet of heating surface | \$70 |
| (D) More than 1000 square feet of heating surface | \$75 |
| (b) Boilers not requiring internal inspection | \$45 |
| (c) Cast iron boilers | \$35 |
| (d) Pressure vessels Maximum fees based on area of vessel, determined by the product of the maximum length and the maximum width or diameter | |
| (A) Maximum area of 50 square feet | \$30 |
| (B) For each additional 100 square feet of area in excess of 50 square feet | \$8 |

(4) A reinspection fee shall be charged at the maximum rate of \$40 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 s s c 36 §17, 1981 c 566 §2, 1983 c 676 §16]

480.600 Special provisions on permit fees; notice from insurer. (1) The permit fee established under ORS 480 510 to 480 665, for a quantity of pressure vessels available for inspection at the same location, shall be fixed by the board 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 480 665

(2) The owner or user of any vessel which is to be inspected during the inspection period

under the provisions of ORS 480 570 (3) shall pay to the Building Codes Agency a special permit fee of \$15, except that the Building Codes Agency 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 480 665

(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 doubled. If court action is taken the Building Codes Agency shall be awarded by the court or judge a reasonable attorney fee at trial and on appeal, in addition to its costs and disbursements, if it prevails [1961 c 185 §21, 1967 c 447 §4, 1969 c 582 §17, 1973 c 830 §7, 1973 c 832 §18b, 1974 s s c 36 §18, 1981 c 566 §3, 1981 c 897 §57, 1983 c 676 §17]

480.605 Miscellaneous fees. The Building Codes Agency 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

(2) Collect a fee for welding and inspectors' examinations and for annual renewal of inspec-

tors' 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]

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 Building Codes Agency and the appropriate legislative review agency, the board may increase the fees referred to in this section by an amount not greater than 10 percent [1983 c 676 §20b]

480.610 Disposition of fees All receipts from fees, charges, costs and expenses under ORS 480 510 to 480 665 shall be collected by the Building Codes Agency and paid into the State Treasury on the first day of each month for the preceding month, and credited by the State Treasurer to the Building Code Account created by ORS 455 230 Such moneys shall be used only for the administration and enforcement of ORS 480 510 to 480 665 [1961 c 485 §23, 1973 c 834 §42, 1983 c 676 §18]

480 615 Appeals (1) The board 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 record shall be kept [1961 c 485 §26, 1983 c 676 §19]

480.630 Licensing and certification of persons installing, altering or repairing

boilers or pressure vessels; examination; fee (1) No person shall engage in the business of installing, repairing or altering boilers or pressure vessels unless the person first obtains a license therefor from the agency

(2) No person shall install, repair or alter boilers or pressure vessels as an employe of a business engaged in the installing, repairing or altering of boilers or pressure vessels unless the person first obtains certification therefor from the agency

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

(4) Licenses and certification shall be issued by the agency upon recommendation of the board and upon payment of a fee of \$10 for each application for an employe or agent's certification and \$100 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

(6) No person shall install, alter or repair a boiler or pressure vessel without first securing a permit therefor from the agency unless the person is not subject to licensure or certification Permits shall be issued only to the persons licensed A permit fee of \$10 shall be paid directly to the agency

(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 agency 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 [1973 c 830 §4, 1983 c 676 §20, 1987 c 414 §36]

480.632 Employment of person not a certificate holder prohibited. No person reg-

istered 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]

480.635 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 wilful 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. 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 valid journeyman state certification issued under ORS 480 630 [1983 c 676 §25]

480.645 Standardized examination; administration. (1) The board shall cause to be prepared examinations that meet the following requirements

(a) The examinations shall be prepared by persons expert in examination preparation and validation

(b) The examinations shall be standardized. In standardizing examinations under this para-

graph, 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 of that person and to review any grade sheets used in connection with the examination [1983 c 676 §26]

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 480 665, 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. Subsequent appeal shall be as provided in ORS 183 480 to 183 550 [1983 c 676 §28]

480.665 Civil penalty. (1) The Board of Boiler Rules may impose a civil penalty against any person who violates any provision of ORS 480 510 to 480 665 or any rule adopted thereunder. A civil penalty imposed under this subsection shall be in an amount determined by the board of not more than \$1,000 for each offense. The Attorney General shall bring an action in the name of the State of Oregon in a court of appropriate jurisdiction to enforce any civil penalty imposed under this subsection. The following apply to the imposition of a civil penalty under this subsection.

(a) Except as provided in paragraph (b) of this subsection, hearing and any review upon the civil penalty is subject to ORS 183 310 to 183 550

(b) Notwithstanding ORS 183 310 to 183 550, a person upon whom the board imposes a civil penalty under this subsection, in lieu of other appeals, may appeal imposition of the penalty to the circuit court for the county in which the person resides by filing a petition for review with that court within 20 days after the person receives notice of imposition of the penalty. The court, upon receipt of the petition, shall set the matter for trial upon 10 days' notice to the board and to the appellant. The trial in the circuit court shall be de novo. The court shall award reasonable attorney fees and costs to the prevailing party in an appeal under this paragraph.

(2) All amounts recovered under this section shall be deposited in the General Fund [1983 c 676 §27]

PENALTIES

480.990 Penalties. (1) Violation of any provision of ORS 480 010 to 480 040 is punishable, upon conviction, by a fine of not more than \$250

(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 punishable, upon conviction, by a fine of not more than \$250

(5) Violation of any provision of ORS 480 110 to 480 160 is a Class B misdemeanor. Violations thereof may be prosecuted in state or municipal courts when violations occur within the municipality served thereby. Justice and district courts shall have concurrent jurisdiction with circuit courts in all proceedings arising within ORS 480 110 to 480 160.

(6) Violation of any provision of ORS 480 210 to 480 220 and 480 235 to 480 265 or of any rule or regulation adopted under ORS 480 280 (1) is a Class B misdemeanor

(7) Any violation of ORS 480 320 to 480 340 is a Class C misdemeanor

(8) Violation of any provision of ORS 480 420 to 480 460 is punishable, upon conviction, by a fine of not more than \$250

(9) Violation of any provision of ORS 480 510 to 480 665, 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]