Department of Consumer & Business Services Oregon Division of Financial Regulation P.O. Box 14480 350 Winter St. NE, Rm. 440 Salem, Oregon 97309-0405 Phone (503) 947-7983

STANDARDS FOR BOILER & MACHINERY OR MECHANICAL BREAKDOWN FORMS, RATES, AND RULES FILING

ORS 742.004(2)(a)(C) exempts Boiler and Machinery forms, rules, and rates from filing, but not from compliance with Oregon laws, rules, and bulletins. If the insurer wishes to actually file B&M for review and approval, this checklist (product standards) has been provided as an aid to assist you in preparing your filing. Mechanical Breakdown Insurance is required to be filed, and this checklist is provided to help you make that compliant submission for Oregon. Please attach the completed checklist under Supporting Documentation in SERFF. ORS 731.296, OAR 836-010-0011 (2) & (3).

This checklist includes relevant statutes, rules, bulletins, and other documented positions to enforce ORS 731.016. <u>The standards are</u> <u>summaries. Review of the entire statute or rule will be necessary</u>. After diligent consideration has been given to each item, mark either the "Yes" or the "N/A" box. You may need to provide Page and Paragraph for some elements noted in the checklist. Compliance with these provisions must be certified by both the filer and an officer of the company signing the Certificate of Compliance form. These signatures certify the forms being submitted meet the requirements of our checklist and statutes. "Not applicable" can be used only if the item does not apply to the coverage being filed. Any line left blank may result in the delay or disapproval of the filing.

This checklist is NOT APPLICABLE to the following:

- For TOIs not listed, see our Web site for instruction at: <u>http://dfr.oregon.gov/rates-forms/Pages/index.aspx</u>.
- For filing rating organization loss cost modification factors, see requirements under Rating Organization Loss Cost on our Web site.
- Filing of simple endorsements, title or declaration pages, or advertisements does not require a checklist of standards, see the Web site.

TOI code:	33.0	Other lines of business	27.0	Boiler & Machinery or Equipment Breakdown
Sub-TOI:	33.0003	Mechanical Breakdown Insurance	27.0000) Boiler & Machinery or Equipment Breakdown
Type of filing:	Individuall	y issued policy	Master	policy issued to auto dealer, lender, lessor

Review	Reference	Description of review standards requirements	Answer
requirement			Yes or No
GENERAL RE	QUIREMENTS FOR	ALL FILINGS	_
Requirements	OAR 836-010-0011 As required on SERFF or our Web site	 Required filing requirements are located on SERFF or on our Web site at: http://dfr.oregon.gov/rates-forms/Pages/index.aspx. The proper information must be attached to the correct schedule items in order for your forms filing to be considered complete. The clean copy of the submitted form must be attached under the Form Schedule tab. Each form filed for approval must be attached to a separate Schedule Item under this tab. The form number should appear exactly as shown on the PDF Any edition/revision date used in the form number must be included under the Form Number column. Do not use both the Form Number field and the Edition Date field The Form type column and the Action column must be completed. The Action Specific Data column must be completed correctly by providing the Oregon Filing Number of the previous filing, and the correct form number with the edition date of the form being replaced. Rates and rules should be submitted under the Rate and Rule tab. The Actuarial Memorandum should be submitted under the Supporting Documentation tab. Other filing requirements as listed below, or other documentation used to assist us in our review, should be submitted under the Supporting Documentation tab. Third-party filer's letter of authorization if applicable. Signed Certificate of Compliance, form 440-3894. For form submissions, a comparison document (annotated, highlighted, red-lined, or side-by-side) must be provided for each previously approved form. Submit document/s under the Supporting Documentation tab. Rates, rules, and actuarial memorandum with an overview of the contents of the filing and the reasons and procedures used to support the rate change. Attach to the Supporting Documentation tab, those previously approved Oregon Amendatory Endorsements that bring the submitted forms into compliance with Oregon statutes. 	Yes N/A

Review	Reference	Description of review standards requirements	Answ	/er
requirement			Yes o	or No
FORM FILING REQUIREMENT	Verify Affiliation with Rating Organization OAR 836-010-0011	Is the insurer a member or subscriber of a Rating Organization for this line of business?	Yes	No
		American Association of Insurance Services (AAIS)		
		Insurance Services Office (ISO)		
		Does the bureau (rating organization) have form filing authority for the named insurance company for this line of business?		
		Provide under Supporting Documentation proof of affiliation for this line of business		
Policy documentation	ORS 742.003(1)	Check all that are submitted in this filing for review:1. New policy or program.2. Endorsements	Yes	N/A
		 Notice of claim requirements issued with liability policies. Debtor's certificate, if using a master policy. Certificate of insurance, if using a master policy. 		
		6. Application form7. Rates and Rules		
Requirements	ORS 742.003, ORS 737.205	No policy has been issued or will be issued upon the forms in this filing until approved. Rates may be used only after receipt by the Division	Yes	N/A
Marketing Plan	Marketing Plan	Every filing is expected to contain a thorough explanation, including any new and innovative product, of the product purpose, targeted audience, and how it will be marketed. Explain any information gathering for underwriting, eligibility, tiering, claim settlement practices, or other purposes.	Yes	N/A
Interline Forms	Information Only Division Position	A simple, generic, one-subject endorsement form that can be used on any P/C policy may be filed using "interline" coding. For example, a FRAUD WARNING, or DOMESTIC PARTNERSHIP endorsement. File these forms using either commercial interline or personal interline coding. Interline forms need only be filed once. Oregon does not require interline forms to be filed separately for each line of insurance, or each product they might be used with. A commercial endorsement form that specifies under the form title those lines of business it applies to, can be filed using CMP (commercial multi-peril) coding.	Yes	N/A

FORM REQUIREM	ENTS		
Review requirement	Reference	Description of review standards requirements	Answer Yes or No
Legibility of forms	ORS 742.005(2)	The forms are clear and understandable in the presentation of premiums, labels, descriptions of content, title, headings, backing, and other indication (including restrictions) in the provisions. The information is clear and understandable to the consumer and is not unintelligible, uncertain, ambiguous, abstruse, or likely to mislead.	Yes N/A
Application	ORS 742.013	Claims cannot be denied based upon information provided by the insured, or on behalf of an insured, unless the signed application is made part of the policy. If the application is attached to, or made part of the policy, prior approval is required.	Yes N/A
Fraud	Bulletin INS 2010-3	If the policy has fraud, concealment, misrepresentation language, then the application is required to include a fraud warning. If one is included, it is general in nature and does not state that the applicant is "guilty" of fraud, but that he or she "may be" guilty of fraud. Fraud or misstatement warnings that mention criminal or civil penalties must avoid definite statements of the criminal nature of an act, guilt, or possible penalties. A warning that specifies that knowingly providing false information "may be" a crime, which "may be" grounds for criminal or civil penalties is appropriate.	Yes N/A
	ORS 742.013, ORS 742.208, Bulletin INS 2010-3	Fraud or misstatement warnings that mention denial of recovery as a possible consequence of an omission, concealment, misstatement or misrepresentation must disclose that in order to deny a claim on this basis, the insurer must demonstrate that the misinformation was material to the content of the contract, that the insurer relied upon this information, and that the misinformation was either provided fraudulently or was material to the risk or hazard assumed by the insurer. (ORS 742.013) Fraud or misstatement warnings that mention cancellation, voiding, or rescission of a policy as possible consequences of an omission, concealment, misstatement or misrepresentation must disclose the line-specific statutory limits to these remedies. Insurers should review Bulletin 2010-3 and the Insurance Code to determine whether their statements comply.	Yes N/A
		See line-specific fraud verbiage for property in ORS 742.208.	

Review requirement	Reference	Description of review standards requirements	Answer Yes or No
Misrepresentation /Misstatements Rebates	ORS 742.013, ORS 742.208 ORS 746.035, ORS 746.045, ORS 746.045 (3)	A provision in the policy, or the application, makes it clear that statements made by the insured, are representations and not warranties. Are inducements or rebates specified in the policy? If "yes," explain in the cover letter and identify the location in the policy and rating plan. ORS 746.045(3) allows an exception if the total value does not exceed \$100 per	Yes N/A Yes N/A Yes N/A
Promotional Offers		Promotional Offers: Any promotional offer or item disclosed in the policy should be specifically identified including what it is and the benefit to the policyholder. Any promotional offer or item that is not related to the risk assumed by the insurer is offered to everyone in a non-discriminatory manner. It is not necessary to file if the value of the gift does not exceed \$100 per person/per year.	Yes N/A
Policy documentation	OAR 836-062-0005	 For individually owned motor vehicle physical damage only policies, a notice of the limited nature of the coverage is filed under one of the following standards: 1. Exact wording and font stated in OAR 836-062-0005 displayed on the face of the policy or evidence of coverage. 2. Attached with a sticker or stamp that contains the required warning. 3. Submitting an alternative notice provision that substantially complies for approval. 	Yes N/A
Policy period	ORS 742.048, ORS 742.023(1)(d)	Effective date and time– Policy states that coverage commences at 12:01 a.m. on the policy effective date. If the policy does not insure real property, use the insured's principal place of business within Oregon, or the insured's residence.The effective date and time shall not be prior to the time at which coverage commences.When parties agree, a binder may commence coverage at an hour different that 12:01 a.m.Any statement of time shall mean time according to the legal standard of time at the insured's primary location or residence premises.	Yes N/A
		A full term of coverage would be 12:01 am on the effective date of the policy to 12:01 am on the expiration of the policy term. Use of a different expiration time could result in an unintentional lapse of coverage that might harm the insured. We recommend using a consistent start and end time.	

Review requirement	Reference	Description of review standards requirements	Answer Yes or No
Controlled Substances, Marijuana, Cannabis	Bulletin DFR 2021-4	Policy language must be clear and unambiguous and be based upon Oregon laws. Any exclusion for possession or use of a controlled substance must allow for the legal use or possession of a prescribed substance. Just so you know, marijuana and cannabis products are legal both medicinally and recreationally under Oregon laws	Yes N/A
Criminal Acts Exclusion	ORS 742.005 (2)	Contract language must be clear and unambiguous, and non-subjective in its application to a specific loss. There should be a connection to the coverage being provided under the policy.	Yes N/A
Dishonest Act	ORS 742.005 (2)	Contract language must be clear and unambiguous, and non-subjective in its application to a specific loss. The insurer must be able to prove the claimant committed a dishonest act and that it was intended to cause a loss under the policy.	Yes N/A
Intentional Act Exclusion	ORS 742.005 (2), Bulletin DFR 2022-2	Policy intentional act exclusions must be clear and unambiguous. A policyholder has to deliberately participate in an intentional act creating a loss that is grounds for excluding coverage. Any excluded policyholders must have a sufficient connection to the intentional act itself to be excluded from coverage. To establish such a connection, the insurer has the burden of proving that the policyholder deliberately participated in the intentional act itself. Merely being associated with the person(s) who committed the intentional act is insufficient for establishing a policyholder's connection with the intentional act triggering coverage exclusion. The policyholder must receive the benefit of any doubts as to whether the policyholder has a sufficient connection with the intentional act that triggered coverage exclusion. Unclear, ambiguous, vague or misleading policy exclusion language that would potentially exclude coverage for a policyholder over negligent acts or unintended acts, injuries, damages or harms will be disapproved, pursuant to ORS 742.005(2).	Yes N/A
Access to courts	ORS 742.061	<u>Attorney fees</u> – If a claim settlement is not made within six months and action is brought to court, should the plaintiff's recovery exceed the amount of payment made by the defendant, the court will set attorney fees to be paid as part of the costs of legal action and any appeal.	Yes N/A

Review requirement	Reference	Description of review standards requirements	Answer Yes or No
Appraisal	ORS 742.232 Molodyh v Truck Insurance Exchange, Bulletin DFR 2020-1	All policies that include the peril of fire contain a provision that if the insured and the insurance company do not agree on the actual cash value or the amount of loss, then, upon mutual agreement, each will select an appraiser and notify the other of the appraiser selected within 20 days of such disagreement. The appraisers shall follow the procedures in ORS 742.232. Each appraiser shall be paid by the party selecting the appraiser and the expenses of appraisal and umpire shall be paid by the parties equally. (See Oregon Supreme Court case law on Molodyh vs Truck Insurance Exchange 304 Or. 290, 744 P.2d 992 (1987)).	Yes N/A
Arbitration	Bulletin DFR 2020-1	 Voluntary arbitration is permitted by the Oregon Constitution and statutes. See additional details below: Either party may elect arbitration at the time of the dispute (after the claimant has exhausted all internal appeals if applicable); Unless there is mutual agreement to use an arbitration process, the decision will only be binding on the party that demanded arbitration; Arbitration will take place in the insured's county or at another agreed upon location; Arbitration will take place according to Oregon law, unless Oregon law conflicts with Federal Code. The process may not restrict the injured party's access to other court proceedings; Restricting participation in a class action suit is permissible. 	Yes N/A
Bankruptcy	ORS 742.031	The policy includes a bankruptcy provision similar to that in ORS 742.031.	Yes N/A

Review requirement	Reference	Description of review standards requirements	Answer Yes or No
Cancellation & nonrenewal	ORS 742.023(1)	The policy clearly defines the cancellation refund method.	Yes N/A
	ORS 742.224(1)	If the policy includes the peril of fire, it contains a provision that the policy may be canceled at any time at the request of the insured. It also states that when the policy has been surrendered, the premium they have paid over and above the customary short rates will be refunded back to them. Refunds must be made within a reasonable time.	Yes N/A
	ORS 742.224(2),	If the policy includes the peril of fire , then the policy requires 10 days written notice prior to cancellation for premium nonpayment and 30 days written notice for any other cancellation reason, ORS 742.224 (2).	Yes N/A
	ORS 742.702, ORS 742.706	If the policy includes commercial liability , then the policy requires 10 working days after policyholder receipt of written notice for cancellation due to premium nonpayment or other statutorily permitted cancellation reason and 45 days after receipt of written notice for nonrenewal, ORS 742.702 and 742.706.	
		Any conflicts between the different cancellation requirements within a policy require the insurer to use the longest notification requirement.	
	ORS 742.224(3)	In a policy that includes the peril of fire, the notice of cancellation states that the excess of paid premium above the pro-rata premium for the expired time, if not tendered with the notice, will be refunded on demand.	Yes N/A
Discrimination	ORS 106.300 thru ORS 106.340, Bulletin 2008-2, OAR 836-081-0010	A provision that recognizes a Domestic Partnership is included in the policy. Terms and provisions in the Insurance Code and in rules adopted under the Code that refer to or indicate the marital relationship, its dissolution and dependents in a marital relationship will apply in the same manner to domestic partnerships, to their dissolution and to dependents in the partnership	Yes N/A
Fees and service charges,	ORS 742.023, ORS 746.015, OAR 836-071-0269	All charges to the policy holder are included in filed rating plans and are listed on the declarations page. No unfiled charges may be added to the declarations page.	Yes N/A

Review	Reference	Description of review standards requirements	Answ	ver
requirement			Yes c	or No
Limits	ORS 742.023	Limits on coverage are clearly described.	Yes	N/A
Loss settlement	ORS 742.023(1)(a)	The policy shall specific the names of the parties to the contract. For mechanical breakdown Division of Financial Regulation policy requires that the policy holder is the borrower or lessee who receives benefits.	Yes	N/A
	ORS 742.023, ORS 742.234	Settlement provisions are clearly explained.	Yes	N/A
	ORS 742.228	The policy contains a provision that the company shall not be liable for a greater proportion of any loss than the amount insured shall bear to the whole insurance covering that peril, whether collectible or not.	Yes	N/A
	ORS 742.230	All policies that include the peril of fire contain a provision that the insured shall give immediate written notice of any loss to protect the property from further damage, shall promptly separate damaged and undamaged personal property, put it in the best possible order, and furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value, and amount of loss claimed.	Yes	N/A
	ORS 742.053	Insurers must furnish a proof of loss form when requested in writing by a person claiming to have a loss under the policy. An insured must have at least 90 days from the date the form is furnished to complete the form and submit it.	Yes	N/A
	ORS 742.238	All policies that include the peril of fire contain a provision that the amount of loss is payable 60 days after proof of loss is received by the company and ascertainment of the loss is made either by agreement in writing or by the filing with the company of an award provided.	Yes	N/A
	ORS 742.236	All policies that include the peril of fire contain a provision that there can be no abandonment to the company of any property.	Yes	NA
Loss valuation	Oregon case law	Diminution of value – If the policy does not provide coverage for loss of market value or "diminution of value," the term describing the limitation is specifically defined in the policy. (Rossier vs. Union Automobile Ins. Co. 134 Or. 211, 291 P.2d 498 (1930); and Dunmire Motor Company vs. Oregon Mutual Fire Ins. Co. 166 Or. 690, 114 P.2d 1005 (1941))	Yes	N/A
Premium payment, refund, or retention	ORS 742.005(2), ORS 742.023, ORS 742.224	The policy clearly defines the cancellation refund method. Upon cancellation for any reason, the policyholder may be entitled to a refund. Refunds should be paid promptly and must be paid upon demand.	Yes	N/A

Review requirement	Reference	Description of review standards requirements	Answ Yes c	
Primary coverage	ORS 742.023	The policy states the value of the benefit, defines the terms of coverage, and describes the conditions and provisions pertaining to the coverage.	Yes	N/A
Requirements	ORS 742.240	Any policy that includes the peril of fire, informs the insured they must have complied with all the requirements of the policy in order to bring suit against the company. The policy must also contain a provision that law suits must be brought within 24 months [or 2 years] after loss."	Yes	N/A
Exclusions	Terrorism Position, INS 2015-1 and E- Notification	Loss due to terrorism may not be excluded in any personal insurance product. Commercial insurance is subject to the Federal Terrorism Risk Insurance Act and its re-authorizations. Beginning in 2002, Oregon has issued guidance on the subject of TRIA/TRIPRA, including an e-notify for the 2019 re-authorization. Forms are required to be filed for prior approval. Policyholder Disclosure forms are also required to be filed for review and approval. Rules and rates (or loss costs) are required to be filed.	Yes	N/A
	ORS 742.206 and ORS 742.212	Any commercial policy that includes property coverage must use an approved Terrorism form and/or Disclosure that states loss due to fire is covered up to the limit provided in the policy. Oregon is a "standard fire state"; therefore, property loss due to terrorism cannot be excluded, limited, or restricted.		
Titles & headings	ORS 742.005(2)	Each form filed identifies the insurer and is clearly titled. Headings for benefits include references to any limitations and restrictions in the provision.	Yes	N/A

RATE, RULE, RATING PLAN, CLASSIFICATION, AND TERRITORY FILING REQUIREMENTS					
Review requirement	Reference	Description of review standards requirements	Answer Yes or No or page/paragraph		
Requirements	ORS 737.205	Copies of rates, rating plans, and rating systems are included in the filing.	Yes No		
Mass Marketing Plans	OAR-836-042-0320	If an Insurer is accepting premium payments from an association for individual policies, 10 day notice is provided for cancellation or non renewal due to non payment of premium. Coverage for a former member remains in force for 60 days after termination with timely payment of premium.	Yes N/A		
Schedule rating	ORS 737.205	Schedule rating plan identifies the credit or debit modification criteria and the maximum and minimum plan modification. Rating plans must be filed prior to use.	Yes No		

Review requirement	Reference	Description of review standards requirements	Answer Yes or No or page/paragraph
Discrimination	ORS 746.015, OAR 836-081-0010	Rates, rating plans, and rating systems do not discriminate unfairly in the availability of insurance and the application of rates.	Yes No
Fees and , service charges,	ORS 737.310, OAR 836-010-0021	Cost-accounting justification on initial filings and subsequent changes. Rates are filed as they are actually charged to the consumer, to include all expenses and fees. Field add-ons to the rates are not permitted.	
Investment	ORS 737.310 and	1. Cash flow method; Or	
income	OAR 836-010-0021	2. Alternative method showing amount of investment income earned on loss, LAE and unearned premium reserve to earned premium.	
Loss valuation	ORS 737.310 and	Premium data.	
	OAR 836-010-0021	Loss and LAE data.	
		Expected loss ratio.	
Rebates	ORS 746.035, ORS 746.045	Are inducements or rebates specified in policy? If "yes," explain in the cover letter and identify the location in the policy and rating system.	
Underwriting	ORS 737.310 and	1. Oregon data for commission and brokerage.	
profit & contingencies	OAR 836-010-0021	2. Countrywide data for general and other acquisition expenses as reported in the <i>Insurance Expense Exhibit</i> .	
		3. Oregon data for taxes, licenses, and fees.	