

DIVISION 555

CERTIFICATE OF NEED LETTERS OF INTENT

Letters of Intent, Required

333-555-0000 (1) Pursuant to ORS 442.315(2), all applicants for a certificate of need shall submit a letter of intent. Such letter of intent shall be filed prior to implementing any part of the project. In cases in which more than one party is potentially subject to review, both parties shall file letters of intent. However, as provided in OAR 333-570-0010(3), only one application will be required if such a project is ruled subject to review.

- (2) Letters of intent shall be sent to the Health Division.
- (3) If the division believes that any person is considering or undertaking a project for which a certificate of need might be required or for which a letter of intent is required under section (1) of this rule, but that person has not submitted a letter of intent, the division may order the person to submit a letter of intent for the project, or may institute proceedings in the circuit courts to enforce obedience to applicable statutes, rules, or orders by injunction or by other processes, mandatory or otherwise, as provided in ORS 442.315(8).

Stat. Auth.: ORS 431.120(6), ORS 442.315
Stats. Implemented: ORS 431.120(6), ORS 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; OHD 11-1998 f. & cert. ef. 10-22-98

Letters of Intent, Filing Periods

333-555-0100 (1) Applicants may submit letters of intent at any time during the calendar year.

- (2) Applications which are ruled subject to full review under OAR 333-555-0030(1) may not be filed sooner than the first day of the month following the publication and mailing of notice of the letter of intent in the Certificate of Need Update, published monthly by the division. For example, a letter of intent submitted in the first half of May would have a notice published in the June 1 edition of the Certificate of Need Update. The application could then be submitted no earlier than July 1.
- (3) A letter of intent automatically expires 365 days following the division's ruling under OAR 333-555-0030. No extension will be granted. An applicant may anticipate the expiration of a current letter of intent by filing a new letter of intent, upon which the division will rule under OAR 333-555-0030. In order to ensure that the previous letter of intent does not expire before an application can be submitted under the new letter of intent, the applicant should file the new letter of intent at least 60 days in advance of the expiration of the previous letter of intent.

Stat. Auth.: ORS 431.120(6), ORS 442.315
Stats. Implemented: ORS 431.120(6), ORS 442.315

Hist.: 13-1994, f. & cert. ef. 4-22-94

Letters of Intent, Application Form

333-555-0020 (1) The contents of the letter of intent shall provide sufficient information to support necessary rulings by the division. The division shall determine, from the letter of intent, whether or not the proposed project is subject to the certificate of need law. A person submitting a letter of intent shall disclose all information which may affect the division's ruling under certificate of need law. There shall be sufficient information to determine the provisions(s) of Division 550 of this Chapter under which a project may be subject. There shall also be sufficient information to determine whether review of the project may be abbreviated under Division

560 of this Chapter. Finally, sufficient information shall be provided so that other parties with an interest in the project may have fair opportunity to submit inquires, letters of intent, and competing applications for delayed review under Division 560 of this Chapter.

(2) The letter of intent shall be submitted on Form LOI-1. If additional information is needed to meet the requirements of section (1) of this rule, the division shall inform the person filing the letter of intent in advance or in response to the letter of intent under OAR 333-555-0030(1)(d).

Stat. Auth.: ORS 431.120(6), ORS 442.315
Stats. Implemented: ORS 431.120(6), ORS 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94

Letters of Intent, Notification

333-555-0030 (1) As soon as possible after receiving and reviewing a letter of intent, the division shall send copies of the letter of intent to any persons known to the division as offering similar services to residents of the area which would be served by the project, together with a notice that the division will consider comments regarding the proposed letter of intent if such comments are received at least two working days prior to the deadline for the division's ruling on the letter of intent. The purpose of providing such notice is informational, so that the division can gather data that may be relevant to its decision regarding the letter of intent. Persons who are sent copies of the letter of intent or who submit comments on the letter of intent are not considered to be parties in the division's review of the letter of intent. The division will not recognize any affected parties in regard to a letter of intent other than the party submitting the letter of intent. Within 15 days of receipt, the division shall give written notification to the person filing the letter of intent and to any parties who have submitted comments of its ruling that:

- (a) The proposal is not subject to the certificate of need law and state the reasons; or

- (b) The proposal is subject to full review under the certificate of need law;
 - (c) The proposal is subject to the certificate of need law, and is eligible for abbreviated review pursuant to OAR 333-560-0010 and 333-560-0020; or
 - (d) The letter of intent contains insufficient information to make a determination;
 - (e) The proposal is subject to certificate of need law and is eligible for expedited review pursuant to OAR 333-560-0110 and 333-560-0120.
- (2) Letters of intent containing insufficient information to make a determination shall not satisfy the requirement of OAR 333-555-0000(1) nor 333-555-0010(2).
- (3) Except as provided under section (4) of this rule, a ruling under subsection (1)(a) of this rule may not be made to terminate if the person who filed the letter of intent can demonstrate that the person's position has changed in a material and substantial way as a result of relying on such ruling.
- (4) Rulings under subsection (1)(a) of this rule apply only to the costs and other relevant conditions as stated in the letter of intent. If these costs or other conditions change or if the person submitting the letter of intent fails to submit information which could affect the division's ruling, the ruling will not apply to the project, and a new letter of intent will be required.
- (5) Following the division's ruling on a letter of intent, applicant may request a meeting, or "preapplication conference" with division staff, to discuss development of the application.
- (6) If the original letter of intent contains insufficient information to make a determination regarding appropriate review categories, the division shall notify the person filing the letter of intent under subsection (1)(d) of this rule that additional

information must be provided in writing. Within 15 days of receipt of sufficient written information, the division shall give written notification under section (1) of this rule.

- (7) The division may, on its own initiative and at its discretion, extend the time period for a response to a letter of intent, as specified in section (1) of this rule, to up to 30 days, in the case of letters of intent that raise complex issues or that require research or consultation by division staff. If the division elects to extend this time period, the division will inform the person filing the letter of intent and any other parties receiving notice under section (1) of this rule.
- (8) If additional information or modifications to a letter of intent are received from the person filing the letter of intent prior to the division's ruling under section (1) of this rule, the deadline for the division's ruling will be 15 days after receipt of such additional information or modification.

Stat. Auth.: ORS 431.120(6), ORS 442.315
Stats. Implemented: ORS 431.120(6), ORS 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94