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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 259
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

FILED

08/28/2024 12:10 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending DPSST Requirements for Accreditation of Fire Service Agency Training Programs

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/30/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later.

If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

ORS 181A.590 allows DPSST to accredit public safety personnel training and ORS 181A.410 provides that DPSST and the Board on Public Safety Standards and Training may establish accreditation standards by rule. OAR 259-009-0087 establishes the standards and processes for a fire service agency training program to be accredited. The accreditation facilitates completion of training and certification for Oregon fire service professionals.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

The Fire Policy Committee (FPC) and the Board on Public Safety Standards and Training (Board) meeting minutes are available on the Department of Public Safety Standards and Training website, www.oregon.gov/dpsst. The DPSST staff memos prepared for each entity are available by submitting a records request to DPSST. The R-1 Accreditation Form is available on the DPSST website at <https://www.oregon.gov/dpsst/FirePrograms/Pages/Program-District-Liaison-Officer-Program.aspx>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

These rule changes are not expected to affect racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

Accreditation is a voluntary process that helps streamline the course certification, instructor certification, and fire service professional certification processes for fire service agencies that conduct in house training. These proposed rule changes provide additional clarification for current requirements and processes, combining information contained in OAR and in the DPSST accreditation review form (R-1). There were no fiscal impacts identified.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There were no fiscal impacts identified for DPSST or the Board on Public Safety Standards and Training.

There were no other state agencies, members of the public, or units of local government, including fire service agencies, that were identified as likely to be economically affected by the proposed rules.

The Department estimates that there are five or fewer Oregon fire service agencies that are private safety agencies that are subject to this rule and potentially considered small businesses. There were no changes identified for projected reporting, recordkeeping, professional services, equipment, supplies, labor, or other administrative activities. These proposed rule changes are not expected to impact small business compliance with the rule.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Potentially affected entities were involved through their representation on the Fire Policy Committee (FPC) and the Board on Public Safety Standards and Training (Board). Small businesses, public and private safety agencies, state agencies, units of local government and the public are invited to submit written comments to the agency rules coordinator during the public comment period on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact on business.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

These proposed rule changes are related to accreditation of fire service agency training programs. Prior to rule drafting, DPSST consulted with District Liaison Officers responsible for reviewing requests for accreditation. To date, the proposed rules have been reviewed and approved by the Fire Policy Committee (FPC). Through the proposed rule public comment period, DPSST is seeking public input and input from fire service agencies affected by these rules. After consideration of any comments or concerns identified during the comment period, the proposed rule changes will be reviewed by the Board on Public Safety Standards and Training (Board) to be approved as permanent rule changes. The FPC and the Board include representatives of the organizations or associations that represent the fire service professionals and fire service agencies who are subject to the administrative rules. The membership of the FPC and the Board is found in Oregon Revised Statutes (ORS) 181A.360 and 181A.375.

AMEND: 259-009-0087

RULE SUMMARY: Accreditation of a fire service agency's training programs allows the fire service agency to teach DPSST approved training courses as in house training that can be used for fire service professional certifications. The accreditation agreement between DPSST and the fire service agency serves to consolidate course certification, instructor certification, and fire service professional certification processes.

Section (1) adds a purpose statement to help define accreditation. It includes identification of the DPSST R-1 Form, which is used to conduct accreditation reviews and provides guidance for the review process.

Section (2) lists the requirements that a fire service agency needs to meet and maintain in order to have accredited training programs. Changes to this section recognize that process wise the initial review and the renewal requirements are the same. This results in merging the content of sections (1) and (2) of the current rule text. Updates to section (2) also incorporate additional clarification based on processes or details that were part of the R-1 Form.

Section (2)(f) adds clarification for the accredited training program instructor requirements. Section (2)(e) states that the fire service agency needs to have at least one currently certified NFPA Fire Instructor I. Requiring someone to be qualified as an NFPA Fire Instructor I doesn't always mean that the person will have the knowledge or experience needed to teach a certification level. Training needs to be conducted by a qualified instructor. The addition of section (2)(f) defines who may be considered a qualified instructor by providing several options that recognize combinations of experience in the certification level (holds certification or is a content expert) and experience for teaching the certification level (NFPA Fire Instructor I or equivalent instructor experience or training).

Section (2)(g) adds clarification that task books and task performance evaluations (TPEs) need to be the DPSST approved versions that correspond with the requirements for certification. Connecting the task books and TPEs to the certification requirements helps recognize that there isn't a TPE option for every certification.

Section (2)(h) changes the requirements for training record retention. Under current rule, training records need to be kept for at least five years. The current rule does not specify how the five years are measured – from the date training was completed or something else. The recommended changes to (2)(h) recognize that the fire service agency may already have a records retention policy in place that fits their needs. If they don't, the rule recommends keeping the records for five years from separation. The recommended retention schedule recognizes the importance of keeping training and certification records for the entirety of a fire service professional's time with the fire service agency, not just five years from the date training was completed.

Sections (3) and (4) show reorganization of the current rule language related to DPSST issuance of a written accreditation agreement, the three year accreditation period, and the process to request renewal of the accreditation agreement.

Section (4)(b) reduces the time allowed for an extension of the accreditation agreement. During COVID, the rule was amended to allow up to a one-year extension. Before COVID, the rule did not include time extensions.

Section (5) adds additional clarification to DPSST termination of an accreditation agreement and a fire service agency's opportunity to appeal the termination. The current rule states that DPSST can terminate an agreement for cause and that the fire service agency may appeal a termination. The current rule does not define what for cause means or what DPSST will do with an appeal.

Section (6) addresses DPSST access to a fire service agency's training records. The revisions to the access language add recognition of the DLO as a DPSST designee for the purpose of reviewing training records. Additional language states that the access to training records is for the purpose of verifying that training, certification, and accreditation standards are met.

CHANGES TO RULE:

259-009-0087

Accreditation of Fire Service Agency Training Programs ¶

~~(1) The Department may accredit fire service agency training programs which~~ A fire service agency may request accreditation for a training program that is delivered by the fire service agency to meet the following training requirements:¶

~~(a) The training program is under the direction of a designated training officer for a level of certification found in OAR 259-009-0062.¶~~

(a) Requests to receive or renew accreditation may be submitted to DPSST or a District Liaison Officer;¶

~~(b) DPSST or the District Liaison Officer will review the fire service agency has at least one currently certified~~

NFPA Fire Instructor I to instruct the accredited's training programs to determine if the training is eligible for accreditation.

(c) Accreditation reviews are conducted using the DPSST R-1 Form.

(2) DPSST may accredit, or renew the accreditation of, a fire service agency's training programs;

(e) when the fire service agency has met the maintenance re-certification all of the following requirements as defined in OAR 259-009-0065;

(d) The t:

(a) The fire service agency has a designated Training eOfficer has validated successful completion of training with a task performance evaluation or a task book at the conclusion.

(b) The fire service agency's training schedule demonstrates delivery of the training program or as a part of the accredited training in accordance with that are approved under the accreditation agreement.

(c) The fire service agency has curriculum that meets the standards and procedures adopted by the Department;

(e) Fire service personnel training records for certification found in OAR 259-009-0062 and has access to the equipment and qualified instructors necessary for eaccredited fire service agency training programs must be maintained by the employing fire service agency for at least five years;h of the training programs that are approved under the accreditation agreement.

(fd) The fire service agency must possesshas at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the National Fire Protection Association (NFPA) Pamphlet #1901; andFPA Standard 1901, 2016 Edition, entitled "Standard for Automotive Fire Apparatus.

(e) The fire service agency has at least one currently certified NFPA Fire Instructor I.

(gf) A written accreditationThe fire service agency's accredited training programs agreement must be prepared by the Department, defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver. T instructed by a qualified instructor. A "qualified instructor" means:

(A) A person who has completed the NFPA Fire Instructor I training requirements and holds a certification for the level of training they are teaching;

(B) A person who has completed the NFPA Fire Instructor I training requirements and is a content expert, per the AHJ, in the level of training they are teaching;

(C) A person who has equivalent instructor training or experience and holds a certification for the level of training they are teaching;

(D) A person who has equivalent instructor training or experience and is a content expert, per the AHJ, in the level of training they agreement must be signed by the Department's designee and the training officer or the fire service agency designee.

(2) The accreditation agreement must be reviewed every three years teaching;

(E) A person who holds a certification for the level of training they are teaching and is observed by a certified NFPA Fire Instructor I while teaching the accredited training;

(F) A person who is a content expert, per the AHJ, in the level of training they are teaching and is observed by a certified NFPA Fire Instructor I while teaching the accredited training; or

(G) For NWCG levels of certification, a person who meets the instructor qualifications defined in the NWCG Standards for Course Delivery, PMS 901-1.

(g) The fire service agency validates each fire service professional's successful completion of an accredited training program using a DPSST-approved task book or a DPSST-approved task performance evaluation that meets the standards for certification found in OAR 259-009-0062.

(ah) The fire service agency accreditation review must be conducted by the District Liaison Officer or Department designee. This review consists of: maintains training records for its fire service professionals per the retention schedule adopted by the AHJ. If the fire service agency doesn't have a retention schedule for training records, DPSST recommends that the fire service agency maintain the training records for five years from the date that the fire service professional left the fire service agency.

(Ai) EvaluatThe fire service agency is ing course outlines and subject content;

(B) Validation of curriculum;mpliance with the maintenance re-certification requirements as defined in OAR 259-009-0065.

(C3) Verification of training records;

(D) Identification of certifications approved to be instructed by the fire service agency; and

(E) Verification of instructor qualifications. When DPSST approves accreditation of a fire service agency's training programs, DPSST will prepare a written accreditation agreement defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver.

(a) The agreement must be signed by DPSST and the fire service agency's Agency Head and Training Officer.

(b) The signed copy must be returned to DPSST for the accreditation status to be valid.

(bc) Changes to an agency accreditation agreement may result in aquire additional fire service agency accreditation agreement reviewreview before approval.

(d) A fire service agency that no longer wants to maintain an accreditation agreement may notify DPSST in writing and request the agreement be voluntarily ended. ¶

(4) Accreditation agreements are valid for three years and may be renewed. ¶

(e) The Department, upon finding good cause, to renew an accreditation agreement, the fire service agency must schedule an accreditation review with DPSST or the District Liaison Officer. ¶

(b) DPSST may extend an accreditation agreement for up to one additional year six months if the fire service agency or the District Liaison Officer submits a written request for an extension that identifies why the required review cannot be completed in accordance with this rule before the current accreditation agreement ends. ¶

(35) The DPSST may terminate an accreditation agreement allows the Department access to the fire service agency's personnel training records to verify training received by fire service agency personnel and to monitor testing processes if the fire service agency no longer meets the standards for accreditation or the fire service agency violates the terms of the accreditation agreement. ¶

(a) DPSST will provide the fire service agency with a written notice of the termination. ¶

(b) The Agency Head may appeal the termination of an accreditation agreement. The appeal must be in writing and submitted to DPSST. ¶

(4c) The Department may terminate a fire Appeals are reviewed administratively by DPSST. DPSST may rescind the termination, uphold the service agency accreditation agreement for cause. ¶

(5) The agency head, on behalf of termination, or continue the accreditation agreement conditionally, while the fire service agency completes steps to be in compliance with this rule and the agreement. ¶

(d) If an accreditation agreement is terminated, the fire service agency; will have the right to appeal the termination of an accreditation agreement. The appeal must be in writing and addressed to the Department. ¶

(6) The Department may work with the fire service agency to correct any violation be able to request accreditation after meeting the accreditation requirements found in this rule. ¶

(6) The accreditation agreement grants DPSST, or a District Liaison Officer as DPSST's designee, access to the fire service agency's training records for fire service professionals and instructors. DPSST or the District Liaison Officer may request access to the fire service agency's training records to ensure that training, certification, and continue the accreditation standards are met. Training records include records that agreement upon a f used to document training of good cause other qualifications such as educational transcripts and experience.

Statutory/Other Authority: ORS 181A.410, ORS 181A.590

Statutes/Other Implemented: ORS 181A.410, ORS 181A.590

Current Rule Text:

259-009-0087 Accreditation of Fire Service Agency Training Programs

(1) The Department may accredit fire service agency training programs which meet the following requirements:

- (a) The training program is under the direction of a designated training officer;
- (b) The fire service agency has at least one currently certified NFPA Fire Instructor I to instruct the accredited training programs;
- (c) The fire service agency has met the maintenance re-certification requirements as defined in OAR 259-009-0065;
- (d) The training officer has validated successful completion of training with a task performance evaluation or a task book at the conclusion of the training program or as a part of the accredited training in accordance with standards and procedures adopted by the Department;
- (e) Fire service personnel training records for accredited fire service agency training programs must be maintained by the employing fire service agency for at least five years;
- (f) The fire service agency must possess at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the National Fire Protection Association (NFPA) Pamphlet #1901; and
- (g) A written accreditation agreement must be prepared by the Department, defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver. The agreement must be signed by the Department's designee and the training officer or the fire service agency designee.

(2) The accreditation agreement must be reviewed every three years.

(a) The fire service agency accreditation review must be conducted by the District Liaison Officer or Department designee. This review consists of:

- (A) Evaluating course outlines and subject content;
- (B) Validation of curriculum;
- (C) Verification of training records;
- (D) Identification of certifications approved to be instructed by the fire service agency; and

(E) Verification of instructor qualifications.

(b) Changes to an agency accreditation agreement may result in an additional fire service agency accreditation agreement review.

(c) The Department, upon finding good cause, may extend an accreditation agreement for up to one additional year if the fire service agency or the District Liaison Officer submits a written request for an extension that identifies why the required review cannot be completed in accordance with this rule.

(3) The accreditation agreement allows the Department access to the fire service agency's personnel training records to verify training received by fire service agency personnel and to monitor testing processes.

(4) The Department may terminate a fire service agency accreditation agreement for cause.

(5) The agency head, on behalf of the fire service agency, will have the right to appeal the termination of an accreditation agreement. The appeal must be in writing and addressed to the Department.

(6) The Department may work with the fire service agency to correct any violation and continue the accreditation agreement upon a finding of good cause.

Proposed Rule Changes:

For ease of review, the proposed rule changes are shown in a plain text version, without revision markings.

259-009-0087 Accreditation of Fire Service Agency Training Programs

(1) A fire service agency may request accreditation for a training program that is delivered by the fire service agency to meet the training requirements for a level of certification found in OAR 259-009-0062.

(a) Requests to receive or renew accreditation may be submitted to DPSST or a District Liaison Officer.

(b) DPSST or the District Liaison Officer will review the fire service agency's training programs to determine if the training is eligible for accreditation.

(c) Accreditation reviews are conducted using the DPSST R-1 Form.

(2) DPSST may accredit, or renew the accreditation of, a fire service agency's training programs when the fire service agency has met all of the following requirements:

(a) The fire service agency has a designated Training Officer.

(b) The fire service agency's training schedule demonstrates delivery of the training programs that are approved under the accreditation agreement.

(c) The fire service agency has curriculum that meets the standards for certification found in OAR 259-009-0062 and has access to the equipment and qualified instructors necessary for each of the training programs that are approved under the accreditation agreement.

(d) The fire service agency has at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the NFPA Standard 1901, 2016 Edition, entitled "Standard for Automotive Fire Apparatus."

(e) The fire service agency has at least one currently certified NFPA Fire Instructor I.

(f) The fire service agency's accredited training programs are instructed by a qualified instructor. A "qualified instructor" means:

(A) A person who has completed the NFPA Fire Instructor I training requirements and holds a certification for the level of training they are teaching;

(B) A person who has completed the NFPA Fire Instructor I training requirements and is a content expert, per the AHJ, in the level of training they are teaching;

(C) A person who has equivalent instructor training or experience and holds a certification for the level of training they are teaching;

(D) A person who has equivalent instructor training or experience and is a content expert, per the AHJ, in the level of training they are teaching;

(E) A person who holds a certification for the level of training they are teaching and is observed by a certified NFPA Fire Instructor I while teaching the accredited training;

(F) A person who is a content expert, per the AHJ, in the level of training they are teaching and is observed by a certified NFPA Fire Instructor I while teaching the accredited training; or

(G) For NWCG levels of certification, a person who meets the instructor qualifications defined in the NWCG Standards for Course Delivery, PMS 901-1.

(g) The fire service agency validates each fire service professional's successful completion of an accredited training program using a DPSST-approved task book or a DPSST-approved task performance evaluation that meets the standards for certification found in OAR 259-009-0062.

(h) The fire service agency maintains training records for its fire service professionals per the retention schedule adopted by the AHJ. If the fire service agency doesn't have a retention schedule for training records, DPSST recommends that the fire service agency maintain the training records for five years from the date that the fire service professional left the fire service agency.

(i) The fire service agency is in compliance with the maintenance re-certification requirements as defined in OAR 259-009-0065.

(3) When DPSST approves accreditation of a fire service agency's training programs, DPSST will prepare a written accreditation agreement defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver.

(a) The agreement must be signed by DPSST and the fire service agency's Agency Head and Training Officer.

(b) The signed copy must be returned to DPSST for the accreditation status to be valid.

(c) Changes to an agency accreditation agreement may require additional review before approval.

(d) A fire service agency that no longer wants to maintain an accreditation agreement may notify DPSST in writing and request the agreement be voluntarily ended.

(4) Accreditation agreements are valid for three years and may be renewed.

(a) To renew an accreditation agreement, the fire service agency must schedule an accreditation review with DPSST or the District Liaison Officer.

(b) DPSST may extend an accreditation agreement for up to six months if the fire service agency or the District Liaison Officer submits a written request for an extension that identifies why the required review cannot be completed before the current accreditation agreement ends.

(5) DPSST may terminate an accreditation agreement if the fire service agency no longer meets the standards for accreditation or the fire service agency violates the terms of the accreditation agreement.

(a) DPSST will provide the fire service agency with a written notice of the termination.

(b) The Agency Head may appeal the termination of an accreditation agreement. The appeal must be in writing and submitted to DPSST.

(c) Appeals are reviewed administratively by DPSST. DPSST may rescind the termination, uphold the termination, or continue the accreditation agreement conditionally, while the fire service agency completes steps to be in compliance with this rule and the agreement.

(d) If an accreditation agreement is terminated, the fire service agency will be able to request accreditation after meeting the accreditation requirements found in this rule.

(6) The accreditation agreement grants DPSST, or a District Liaison Officer as DPSST's designee, access to the fire service agency's training records for fire service professionals and instructors. DPSST or the District Liaison Officer may request access to the fire service agency's training records to ensure that training, certification, and accreditation standards are met. Training records include records that are used to document training or other qualifications such as educational transcripts and experience.

Summary of Recommended Proposed Rule Changes:

Section (1) adds a purpose statement to help define accreditation. It includes identification of the DPSST R-1 Form, which is used to conduct accreditation reviews and provides guidance for the review process.

Section (2) lists the requirements that a fire service agency needs to meet and maintain in order to have accredited training programs. Changes to this section recognize that process wise the initial review and the renewal requirements are the same. This results in merging the content of sections (1) and (2) of the current rule text. Updates to section (2) also incorporate additional clarification based on processes or details that were part of the R-1 Form.

Section (2)(f) adds clarification for the accredited training program instructor requirements. Section (2)(e) states that the fire service agency needs to have at least one currently certified NFPA Fire Instructor I. The DLOs identified that requiring someone to be qualified as an NFPA Fire Instructor I doesn't always mean that the person will have the knowledge or experience needed to teach a certification level. Training needs to be conducted by a qualified instructor. The addition of section (2)(f) defines who may be considered a qualified instructor by providing several options that recognize combinations of experience in the certification level (holds certification or is a content expert) and experience for teaching the certification level (NFPA Fire Instructor I or equivalent instructor experience or training).

Section (2)(g) adds clarification that task books and task performance evaluations (TPEs) need to be the DPSST approved versions that correspond with the requirements for certification. Connecting the task books and TPEs to the certification requirements helps recognize that there isn't a TPE option for every certification.

Section (2)(h) changes the requirements for training record retention. Under current rule, training records need to be kept for at least five years. The current rule does not specify how the five years are measured – from the date training was completed or something else. The recommended changes to (2)(h) recognize that the fire service agency may already have a records retention policy in place that fits their needs. If they don't, the rule recommends keeping the records for five years from separation. The recommended retention schedule recognizes the importance of keeping training and certification records for the entirety of a fire service professional's time with the fire service agency, not just five years from the date training was completed.

Sections (3) and (4) show reorganization of the current rule language related to DPSST issuance of a written accreditation agreement, the three year accreditation period, and the process to request renewal of the accreditation agreement.

Section (4)(b) reduces the time allowed for an extension of the accreditation agreement. During COVID, the rule was amended to allow up to a one-year extension. Before COVID, the rule did not include time extensions.

Section (5) adds additional clarification to DPSST termination of an accreditation agreement and a fire service agency's opportunity to appeal the termination. The current rule states that DPSST

can terminate an agreement for cause and that the fire service agency may appeal a termination. The current rule does not define what for cause means or what DPSST will do with an appeal.

Section (6) addresses DPSST access to a fire service agency's training records. The revisions to the access language add recognition of the DLO as a DPSST designee for the purpose of reviewing training records. Additional language states that the access to training records is for the purpose of verifying that training, certification, and accreditation standards are met.

Rule Change Summary