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**PERMANENT ADMINISTRATIVE ORDER**

**SBOT 1-2023**

CHAPTER 750  
STATE BOARD OF TOWING

**FILED**

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FILING CAPTION: Initial Administrative Rules adopted by the State Board of Towing under OAR Chapter 750.

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**RULES:**

750-001-0001, 750-001-0010, 750-001-0030, 750-001-0040, 750-001-0050, 750-010-0001, 750-010-0010, 750-010-0030, 750-010-0040, 750-010-0050, 750-010-0060, 750-010-0080, 750-010-0090, 750-010-0100, 750-010-0110, 750-010-0120, 750-040-0001, 750-040-0020, 750-040-0040, 750-060-0001, 750-060-0010, 750-060-0020, 750-070-0001, 750-070-0010, 750-070-0020, 750-070-0030, 750-070-0040, 750-070-0050, 750-080-0001, 750-080-0020

ADOPT: 750-001-0001

RULE TITLE: Uniform and Model Rules of Procedure.

ADOPTED ATTORNEY GENERAL'S MODEL RULES BY REFERENCE.

RULE SUMMARY: Attorney General's Uniform and Model Rules of Procedure under ORS 183.341 adopted by the State Board of Towing.

**RULE TEXT:**

The State Board of Towing adopts the Attorney General's Uniform and Model Rules of Procedure under ORS 183.341. These rules will be controlling except as otherwise required by law or rule.

STATUTORY/OTHER AUTHORITY: ORS 183.341, ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 183.341, ORS 822.265

ADOPT: 750-001-0010

RULE TITLE: Notice of Proposed Rules.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Notice of Proposed Rules adopted by the State Board of Towing.

RULE TEXT:

(1) Prior to the adoption, amendment, or repeal of an administrative rule under OAR Chapter 750, the State Board of Towing will give notice of its intended action:

(a) By publishing in the Secretary of State's bulletin referred to in ORS 183.360 at least 21 calendar days prior to the effective date of the Proposed Rule; and

(b) By publishing on the Board's website at least 21 calendar days prior to the effective date of the Proposed Rule; and

(c) By distributing a copy of the Notice by electronic mail to persons on the Board's mailing list established under ORS 183.335 at least 28 calendar days prior to the effective date; and

(d) By furnishing a copy of the Notice by regular mail to all persons requesting written notice from the Board, postmarked at least 28 calendar days prior to the effective date of the Proposed Rule; and

(e) Delivered by electronic mail, at least 49 days before the effective date, to the persons specified in subsection (15) of ORS 183.335; and

(f) By distributing an electronic copy of the Notice to the following agencies, organizations, or publications:

(A) Oregon Dept. of Transportation.

(B) ODOT Driver and Motor Vehicles, Program Services.

(C) ODOT Driver and Motor Vehicles, Vehicle Services.

(D) Oregon Tow Truck Association.

(E) Individually to each of the 36 County Sheriff Departments in Oregon.

(F) Individually to the City and Community Police Departments in Oregon.

(G) Other organizations, agencies or publications known to the Board that may have a direct interest in the administrative rule.

(2) The Board may update the mailing list described in subsection (1)(c) and (1)(d) of this rule by requesting persons to confirm they wish to remain on the mailing list.

(a) If a person does not respond to a request for confirmation within 30 days of the date the Board sends the request, the Board will remove the person from the mailing list.

(b) Any person removed from the mailing list will be immediately returned to the mailing list upon request.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 183.335

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 183.335

ADOPT: 750-001-0030

RULE TITLE: Contested Case Hearings.

ADOPTED ATTORNEY GENERAL'S MODEL RULES BY REFERENCE.

RULE SUMMARY: Attorney General's Uniform and Model Rules of Procedure for contested cases adopted by the State Board of Towing.

RULE TEXT:

The State Board of Towing adopts the Attorney General's Model Rules of Procedure for contested cases under ORS 183.413 through 183.502. These rules will be controlling except as otherwise required by law or rule.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 183.413

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 183.413

ADOPT: 750-001-0040

RULE TITLE: Authorization for Agency Representative.

ADOPTED ATTORNEY GENERAL'S MODEL RULES BY REFERENCE.

RULE SUMMARY: Attorney General's Uniform and Model Rules of Procedure authorizing appearance of Board representative at contested case hearings adopted by the State Board of Towing.

RULE TEXT:

The State Board of Towing adopts the Attorney General's Model Rules of Procedure to authorize the appearance of Board's representative at contested hearings pursuant to ORS 183.452.

STATUTORY/OTHER AUTHORITY: ORS 183.452, ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 183.452, ORS 822.265

ADOPT: 750-001-0050

RULE TITLE: Civil Penalty Procedures.

ADOPTED ATTORNEY GENERAL'S MODEL RULES BY REFERENCE.

RULE SUMMARY: Attorney General's Model Rules of Procedure for civil penalties under ORS 183.745 adopted by the State Board of Towing.

RULE TEXT:

The State Board of Towing adopts the Attorney General's Model Rules of Procedure for civil penalties and related procedures and processes under ORS 183.745. These rules will be controlling except as otherwise required by law or rule.

STATUTORY/OTHER AUTHORITY: ORS 183.745, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 183.745, ORS 822.995

ADOPT: 750-010-0001

RULE TITLE: Definitions.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Definitions of words and terms used in the State Board of Towing's administrative rules Chapter 750.

RULE TEXT:

As used in OAR Chapter 750:

- (1) "Administrator" means the Board Administrative Officer appointed under ORS 822.260.
- (2) "Board", "SBOT", "Tow Board", or "Towing Board" means the State Board of Towing.
- (3) "Compensation" means something given or received as payment including, but not limited to bartering, tips, monies, trades, donations, or services.
- (4) "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services.
- (5) "Industry" means the collective tow operators, tow businesses, and other entities working in the tow and recovery professions.
- (6) "Law" means a written statute passed by the Oregon Legislature.
- (7) "Non Preference Towing" means the rotational list of towing businesses established by Oregon State Police under ORS 181A.350.
- (8) "OAR" means an Oregon Administrative Rule adopted by the Board and filed with the Oregon Secretary of State.
- (9) "ODOT" means Oregon Dept. of Transportation.
- (10) "'ORS" mean Oregon Revised Statute, written laws passed by the Oregon Legislature.
- (11) "OSP" means Oregon State Police.
- (12) "Respondent" means the person or entity to whom a formal enforcement action is issued.
- (13) "Special Committee" or "Subcommittee" means a standing, special, ad hoc, or other committee comprised of no more than three Board Members created to assist with the work of the Board as assigned.
- (14) "Tower" or "Tow Operator" means an individual who operates a tow or recovery vehicle for compensation, which may include, but is not limited to, the impounding, transporting, or storage of unauthorized vehicles, or the disposal of abandoned vehicles.
- (15) "Towing Business" means an individual, partnership, corporation, or other business entity that owns or operates a tow or recovery vehicle for commercial purposes.
- (16) "Tow Certificate" or "Towing Business Certificate" means a towing or recovery vehicle business certificate issued by DMV under ORS 822.205.
- (17) "Tow Truck" means a motor vehicle operated for compensation equipped with equipment designed and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects creating a hazard on the public roadways. If a tow operator, or tow truck owner business, profits, benefits, or is compensated for operation of the vehicle in towing or recovery, the vehicle must be considered a tow truck under OAR Chapter 750.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.260

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.260

ADOPT: 750-010-0010

RULE TITLE: Fees.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Fees adopted, assessed, or imposed by the State Board of Towing.

RULE TEXT:

(1) The State Board of Towing will impose a fee of \$100 on any person or entity holding or applying for a tow or recovery vehicle business certificate in the State of Oregon, pursuant to ORS 822.285 (3). The fee:

(a) Will be collected during the application process for issuance or renewal of a tow business certificate as described in ORS 822.200 to 822.215 and OAR 735-154-0010.

(b) Fees paid to the Board under this section does not preclude the certification requirements under ORS 822.205.

(2) Fees collected under OAR 750-010-0010 will be deposited into the State Board of Towing Account established under ORS 822.270.

(3) Whenever a bank check, credit, or debit transaction in payment of an obligation to, or service provided by, the Board is dishonored by the bank upon which the check is drawn, the authorization holder must pay a \$35 administrative processing "NSF" fee to the Board. The Board may take other disciplinary action against an authorization holder or payer and may seek other legal remedies to collect the returned items.

(4) Fees paid to the State Board of Towing are nonrefundable.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.285 (3)

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.285 (3)

ADOPT: 750-010-0030

RULE TITLE: Fiscal.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Identification of the State Board of Towing's fiscal year as a 12 month period beginning July 1 of each year.

RULE TEXT:

The State Board of Towing fiscal year will be a twelve-month period beginning July 1 of one year and ending June 30 of the following year.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265



ADOPT: 750-010-0040

RULE TITLE: Contracts and Procurement.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Conditions for when the State Board of Towing may consider contracting services.

RULE TEXT:

The State Board of Towing may contract for services when:

- (1) The specialized skills, knowledge, and resources are not available within the Board or its staff;
- (2) The work cannot be done in a reasonable time with the Board's own workforce;
- (3) An independent and impartial evaluation of a situation is required by a consultant with recognized professional expertise and stature in a field; or
- (4) Cost and expenses incurred by the Board will be reduced under a contract for the work.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-010-0050

RULE TITLE: Board Meetings.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing's public meeting calendar and notice process.

RULE TEXT:

- (1) The State Board of Towing will hold regular public Board Meetings at least once every fiscal quarter.
- (2) Regularly scheduled Public Board Meetings will be noticed to the public a minimum of ten (10) calendar days before the scheduled date of the meeting by:
  - (a) Posting on the Board website; and
  - (b) Posting on the Public Calendar of the Oregon Transparency website; and
  - (c) Distributing a copy of the Notice by electronic mail to persons on the Board's mailing list
- (3) The Board will hold emergency or special meetings at the request of any Board member or the Board Administrator to address emergency or time-sensitive board matters or business, noticed to the public a minimum of three (3) calendar days before the scheduled date of the meeting by the same means described in OAR 750-010-0040 (2).
- (4) In case of an emergency, a meeting may be held pursuant to ORS 192.640.

STATUTORY/OTHER AUTHORITY: ORS 192.620, ORS 822.255 (5), ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 192.620, ORS 822.255 (5), ORS 822.265

ADOPT: 750-010-0060

RULE TITLE: Annual Business Work Session.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Administrative rule defining the State Board of Towing's annual business meeting and work session requirement.

RULE TEXT:

The State Board of Towing will hold an annual business meeting and work session every fiscal year.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-010-0080

RULE TITLE: Board Member Assignments.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Assignment of tasks and projects to State Board of Towing board members.

RULE TEXT:

(1) State Board of Towing members may be assigned, individually or as a committee, to a task or project by volunteering or by Board vote or consensus during a public meeting.

(2) No more than three (3) active Board Members will be assigned to any one committee.

(3) The authority of the Board Member Assignments is limited to research, evaluation, or information gathering for presentation and recommendation to the Board unless otherwise approved by the Board.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-010-0090

RULE TITLE: Board Committees and Subcommittees.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Creation of special and subcommittees by the State Board of Towing.

RULE TEXT:

(1) Special Committees and Subcommittees may be created by the State Board of Towing to research, study, or evaluate various aspects of policy, programs, or projects for the purpose of recommendation of courses of action to the Board.

(2) A Committee created by the Board may exist as long as there remains concern or interest for the assigned area of interest, until the conclusion of the committee assignment, or until disbanded by the Board.

(3) Committees will consist of three (3) or more members, including one (1) Board member or Board staff assigned as the Board's representative and liaison, except as required by ORS 183.333 (8).

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-010-0100

RULE TITLE: Board Staff.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Role and responsibilities of State Board of Towing Administrator.

RULE TEXT:

(1) The State Board of Towing will appoint an Administrative Officer, approved by the Governor of the State of Oregon, to serve as the Administrator of the Board.

(2) The Administrator is responsible for the general administration and implementation of the Board's affairs in accordance with the general policies established by Oregon laws, Administrative Rules, and the Board's policies and direction.

(3) A formal performance review of the Administrator will be conducted at the Board's annual meeting and work session.

(4) The Administrator will have signature authority for notices of proposed actions, final orders, other disciplinary actions, subpoenas, and other signature authority as delegated by the Board.

STATUTORY/OTHER AUTHORITY: ORS 822.260, ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.260, ORS 822.265

ADOPT: 750-010-0110

RULE TITLE: Public Records Requests.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing public record request process required under ORS 192.324.

RULE TEXT:

- (1) Anyone may submit a written request for disclosure of a public record for which the State Board of Towing is the custodian
- (2) A request for public records must include:
  - (a) The name, mailing address, email address, and telephone number, if any, of the requestor;
  - (b) A sufficiently detailed description of the record(s) requested, including the identification, description, type, and format of the public record, if known to the requestor; and
  - (c) The signature of the requestor and date of request.
- (3) The written request may be delivered in person or by USPS mail or other delivery services, and by email.
- (4) The Board may charge a reasonable fee for public record requests under ORS 192.324(4), calculated to reimburse the Board for actual costs of locating, producing, and providing copies of public records.
  - (a) A cost estimate will be provided to the requestor before the production of any records, other than those records that will be provided at no cost.
  - (b) All fees must be paid in advance of releasing the requested public records for inspection or before photocopies are provided. Payments must be made by check or money order and made payable to the State Board of Towing.

STATUTORY/OTHER AUTHORITY: ORS 192.324, ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 192.324, ORS 822.265

ADOPT: 750-010-0120

RULE TITLE: Severability.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Severability of the State Board of Towing rules.

RULE TEXT:

These rules are severable. If any rule under OAR Chapter 750, or part thereof or the application of such rule to any person or circumstance is declared invalid, that invalidity will not affect the validity of any remaining portion of the rules of the State Board of Towing under OAR Chapter 750.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265



ADOPT: 750-040-0001

RULE TITLE: Violations.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing authority and jurisdiction to impose civil penalties, sanctions, or other disciplinary action under ORS 822.265.

RULE TEXT:

The State Board of Towing may impose a civil penalty, sanctions, or take other disciplinary action under ORS 822.265: for violation of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605 and other laws and rules assigned to the Board for administration.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

ADOPT: 750-040-0020

RULE TITLE: Separate Violations.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Identification of each violation as a separate violation, subject to separate disciplinary or sanctions by the State Board of Towing.

RULE TEXT:

Each violation of a law assigned to the State Board of Towing for administration, an administrative rule adopted by the Board, or an Order issued by the Board is a separate violation subject to separate Board disciplinary actions and sanctions, including, but not limited to, civil penalties assessed by the Board.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.995

ADOPT: 750-040-0040

RULE TITLE: Enforcement.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing authority to enforce disciplinary actions, including issuance a Notice of Proposed Action and authorizing possible settlement of a disciplinary case prior to the effective date of a Final Order.

RULE TEXT:

(1) The State Board of Towing may issue a Notice of Proposed Disciplinary Action for violation(s) of the laws administered, or administrative rules adopted, by the Board.

(2) The Board Administrator or the Administrator's designee will have the authority to negotiate and approve a stipulated settlement at any time prior to the effective date of a Final Order issued by the Board.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

ADOPT: 750-060-0001

RULE TITLE: Consumer Protection and Complaints.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing's objectives and considerations to protect the safety and well-being of the public in the State of Oregon.

RULE TEXT:

(1) The objective of the State Board of Towing is to safeguard the health, safety, and public welfare of the people of Oregon by:

- (a) Providing education to the public and the towing industry;
- (b) Establishing professional industry standards;
- (c) Investigating complaints and concerns of the public regarding the towing industry; and
- (d) Enforcing the laws and administrative rules regulating the towing industry in Oregon.

(2) Considerations for the protection of the safety and wellbeing of the public include:

- (a) Standards and classifications for professional tow trucks and equipment used for commercial towing and recovery operations is essential.
- (b) Encouragement of a competitive and trained professional towing industry by establishing a uniform and equitable system for the standardization and regulation of the tow industry.
- (c) The use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire or compensation.
- (d) A private citizen, a tower, or tow truck company responding in good faith to life-threatening emergency situations.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-060-0010

RULE TITLE: Consumer Protection Committee.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Appointment of Consumer Protection Committee as needed to provide recommendations for Board action.

RULE TEXT:

(1) The State Board of Towing may appoint a Consumer Protection Committee comprised of three Board Members, but no more than two tow industry members, to:

- (a) Provide direction and consultation to Board Staff; and
- (b) Make recommendations for action to the Board when necessary.

(2) Any Board member or Board staff who has a conflict of interest to a complaint will declare the conflict and will not participate in any Committee activity concerning the complaint.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-060-0020

RULE TITLE: Complaints.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing complaint process.

RULE TEXT:

(1) Any person, business, agency, or other entity may file a complaint with the State Board of Towing regarding the conduct of a tow business certificate holder, its employer or representative, an individual tow operator, or any person or business representing themselves as a tow business, a tow operator, or engaging in the practice of towing in the State of Oregon.

(2) Complaints made to the Board must include a detailed explanation of:

(a) The approximate date, time, and location of the adverse event or subject of the complaint.

(b) A description of the conduct or events that occurred.

(c) A description of damage or loss suffered by Complainant.

(d) Copies, if available, of any pictures, receipts, correspondence, or other documentation supporting the allegations of the Complaint.

(3) Complainants will not be considered a party to a Board compliance case or disciplinary action.

(4) Complaints will be initially reviewed by the Board Administrator to:

(a) Assess Board jurisdiction and authority to address the issue(s) raised; and

(b) To assure there is sufficient evidence to justify proceeding to investigate and to determine if the allegations against the Respondent are such that, if proven, could result in disciplinary action being imposed by the Board.

(5) Written acknowledgement of a complaint and the result of the initial review will be sent to the Complainant within thirty (30) calendar days from the receipt of the complaint.

(6) Every complaint and initial response will be presented during Executive Session of the next regularly scheduled meeting of the Board.

(7) Any Board member or Board staff who has a conflict of interest to a complaint will declare the conflict and will not participate in the investigation, disposition, or other activity concerning the complaint.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-070-0001

RULE TITLE: Purpose of Investigations.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Objectives and purpose of a State Board of Towing investigation.

RULE TEXT:

The purpose of an investigation conducted by the State Board of Towing is to:

- (1) Investigate the allegations of a complaint;
- (2) Investigate information indicating potential violations of Oregon's laws and administrative rules regulating the towing industry;
- (3) Verify compliance with Oregon's laws and administrative rules regulating the towing industry or with any Order issued by this Board or another Oregon jurisdiction; and
- (4) Obtain sufficient, credible, and verifiable evidence of violation of the laws or rules administered by the Board to justify issuance sanctions or such other action as the circumstances may warrant.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-070-0010

RULE TITLE: State Board of Towing Investigations

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing's investigation process.

RULE TEXT:

(1) The State Board of Towing may investigate a complaint when:

(a) The complaint subject appears to be within the Board's jurisdiction and authority, and

(b) There is sufficient evidence to justify a Board investigation to determine if the allegations against the Respondent(s) are such that, if proven, could result in disciplinary action being imposed by the Board.

(2) The Board Administrator oversees the investigation process on behalf of the Board and serves as the primary point of contact.

(3) To the extent permitted by law, the Board will cooperate with other regulatory boards and other agencies when conducting an investigation.

(4) Nothing in this section is intended to limit the Board's authority to initiate and conduct investigations on the Board's own motion.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265



ADOPT: 750-070-0020

RULE TITLE: Investigations of Violations or Complaints.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: State Board of Towing authority and delegation during the investigation of complaints and cases.

RULE TEXT:

(1) The State Board of Towing may delegate its investigative powers and authority for purposes of initiating and carrying out investigations.

(2) In the conduct of investigations, the Board may:

(a) Take evidence.

(b) Take the depositions of witnesses.

(c) Compel the appearance of witnesses before the Board.

(d) Compel the production of documents or other information deemed necessary to carry out the investigation.

(3) In exercising its authority under ORS 822.275 and subsection (2) of this section, the Board may issue subpoenas over the signature of the board Chairperson, Vice Chairperson or to the Board Administrator as delegated by the Board.

(4) If a person or entity fails to comply with a subpoena issued by the Board or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 will be followed.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.275

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.275

ADOPT: 750-070-0030

RULE TITLE: Cooperation in Board Investigations.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Expectations of cooperation in State Board of Towing investigations.

RULE TEXT:

(1) Every Tow Operator, Tow Business, and their representatives and employees, regardless of tow business certificate status, having information regarding a possible violation of the administrative rules or laws governing the towing industry in Oregon must cooperate with the State Board of Towing investigations in furnishing such information in order that appropriate investigative, corrective, or disciplinary action may be taken.

(2) Failure by a Tow Operator, a Tow Business, their representative or employee to cooperate with a Board investigation is grounds for disciplinary action.

(3) Cooperation in a Board investigation includes:

(a) Submitting client or business records relevant to the investigation, excepting confidential information protected by law;

(b) Being available for a personal interview in support of a Board investigation during reasonable hours;

(c) Responding and directly answering questions asked during an interview or investigation;

(d) Verbally providing information reasonably known at the time of the interview or investigation; and

(e) Allowing access, during business hours, of the business premises and equipment for inspection if required to conduct a Board investigation into the allegations of a complaint.

(4) Respondents named in a complaint, or their representatives, may be personally interviewed or may be given an opportunity to provide a written response to the complaint as part of a Board investigation.

(a) Written responses, records, and other information requested by or on behalf of the Board must be provided to the Board office within 21 calendar days after the Board request is personally served, mailed by USPS regular, or sent by electronic mail, unless an extension is authorized by the Board Administrator.

(b) Written responses, records, or other information requested but not received at the Board's office within 21 calendar days may not be considered in the Board's investigation.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.275

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.275

ADOPT: 750-070-0040

RULE TITLE: Investigation Reports.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Purpose and expectations of investigation reports.

RULE TEXT:

- (1) The purpose of an investigation report is to provide the State Board of Towing with enough information to determine whether violations of one or more laws or administrative rules occurred and to take action when appropriate.
- (2) An investigation report will be completed and submitted to the Board within 120 days after the Board receives the complaint.
  - (a) The Board may extend the time for submitting the report by up to 30 days after case review and Board vote.
  - (b) The Board may grant more than one extension of time.
- (3) The investigation report, exhibits, and other case information will be reviewed by the Board during Executive Session at a scheduled board meeting.
  - (a) The Board will evaluate all evidence obtained during the investigation, including the original complaint, and any documents or statements received from the Complainant, Respondent, law enforcement, or other parties.
  - (b) If the evidence is insufficient to justify further Board action, the Complainant and Respondent will be notified in writing.
  - (c) If the evidence is sufficient to justify further action, the Board will determine appropriate action during public session of a regular or special meeting.
- (4) Investigatory information obtained during a Board investigation or contained in a written report to the Board is confidential and will be exempt from public disclosure unless otherwise required by law.
- (5) Investigation Reports, Incident Reports or official documents submitted by a law enforcement agency, a Municipal, Justice, or County Court, state regulatory agencies, or another official board, agency, or other entity may be accepted by the Board as a Board Investigation Report.

STATUTORY/OTHER AUTHORITY: ORS 822.265

STATUTES/OTHER IMPLEMENTED: ORS 822.265

ADOPT: 750-070-0050

RULE TITLE: Board Actions After Investigations.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Actions the State Board of Towing may take upon conclusion of an investigation.

RULE TEXT:

Upon completion of an investigation the State Board of Towing may:

- (1) Close the investigation and take no action.
- (2) Issue a letter of concern, reprimand, or instruction.
- (3) Issue a Notice of Proposed Action proposing disciplinary action.
- (4) Enter into a stipulated agreement with the Respondent to impose discipline.
- (5) Take such other disciplinary action as the Board, in its discretion, finds proper and reasonable, including assessment of a civil penalty under the Board's Civil Penalty Fee Schedule, OAR 750-080-0040.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

ADOPT: 750-080-0001

RULE TITLE: Progressive Discipline.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Objectives and purpose of progressive discipline.

RULE TEXT:

- (1) The goal of progressive discipline is to correct behavior and conduct, deter a person or entity from repeating the conduct, and educate the person or entity to improve compliance with applicable laws and rules.
- (2) Progressive discipline includes increasingly severe steps or measures against a person, persons, or entity when there is a failure to correct behavior or conduct, or when subsequent instances of inappropriate behavior and conduct occur.
- (3) The State Board of Towing will evaluate relevant and mitigating factors to determine whether to issue a non-disciplinary educational letter or letter of concern, or to issue discipline through reprimand, suspension, revocation, or civil penalties.
- (4) Board disciplinary action will comply with ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

ADOPT: 750-080-0020

RULE TITLE: Mitigating Circumstances.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Mitigating circumstances the State Board of Towing may consider prior to issuing or imposing board action.

RULE TEXT:

The State Board of Towing may consider the following mitigating circumstances prior to issuing or imposing a non-disciplinary or disciplinary action under this section:

(1) The person or entity's history in observing the provisions of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605 and the rules of the Board under OAR Chapter 750;

(2) The nature of the violation;

(3) The effect of the violation on public safety and welfare;

(4) Whether the conduct or action(s) was inadvertent or intentional;

(5) The person's experience and education;

(6) The degree to which the action subject to sanction violates professional ethics and standards of the profession;

(7) The level of cooperation and engagement in the Board's investigation;

(8) The economic and financial condition of the person or entity subject to sanction; and

(9) Any mitigating or aggravating factors the Board may choose to consider.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.995

OFFICE OF THE SECRETARY OF STATE

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**PERMANENT ADMINISTRATIVE ORDER**

**SBOT 2-2023**

CHAPTER 750  
STATE BOARD OF TOWING

**FILED**

10/31/2023 10:40 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Initial Administrative Rules approved by the State Board of Towing under OAR Chapter 750.

EFFECTIVE DATE: 01/01/2024

AGENCY APPROVED DATE: 10/25/2023

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RULES:

750-080-0030, 750-080-0040, 750-080-0050

ADOPT: 750-080-0030

RULE TITLE: Disciplinary Actions and Sanctions.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Rules defining the disciplinary sanctions and actions that may be imposed by the Board.

RULE TEXT:

(1) The State Board of Towing may order the Department of Transportation to deny, suspend, revoke or refuse to renew a towing business certificate pursuant to ORS 822.280.

(2) The Board may order the Department of State Police to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing businesses established under pursuant to ORS 822.290.

(3) The Board may assess a civil penalty under ORS 822.995 according to the Schedule of Civil Penalties under OAR 750-080-0040.

(4) Respondents have the right to a contested case hearing to contest the findings of the Board or proposed disciplinary action, provided the written request for a hearing is received by the Board within 20 days of the date the Notice of Proposed Disciplinary Action was issued, except as required under ORS 183.

(5) The Board may assess reasonable costs, fees, and expenses of a disciplinary proceeding against the Respondent(s), including, but not limited to:

(a) Costs and fees incurred by the Board in conducting the investigation.

(b) Attorney fees.

(c) Costs assessed by the Office of Administrative Hearings if the Board prevails at a contested case hearing requested by Respondent.

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

ADOPT: 750-080-0040

RULE TITLE: Civil Penalty Schedule.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Schedule of civil penalties considered by the State Board of Towing prior to imposing disciplinary action or sanctions.

RULE TEXT:

(1) The State Board of Towing adopts the following Schedule of Civil Penalties:

(a) 1st offense: \$0 - \$500

(b) 2nd offense: \$500 - \$1000

(c) 3rd offense: \$1000 - \$2500

(d) Additional offenses: Additional civil penalties, in an amount up to \$25,000 per violation, as determined by the Board.

(2) The Board may assess a civil penalty in an amount greater than the Schedule of Civil Penalty when it is determined by the Board that a particular violation or conduct is especially egregious or severe causing unnecessary risk or harm to the public and others.

(3) In determining an appropriate civil penalty amount, the Board may consider the following:

(a) The severity of the violation or its impact on the safety or wellbeing of the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional;

(d) The prior history of civil penalties and sanctions imposed by the Board or other regulatory agencies

(e) Other circumstances determined by the Board to be applicable to the violation(s).

STATUTORY/OTHER AUTHORITY: ORS 822.265, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 822.265, ORS 822.995



ADOPT: 750-080-0050

RULE TITLE: Effective Dates of Disciplinary Actions.

NOTICE FILED DATE: 09/19/2023

RULE SUMMARY: Effective dates of disciplinary actions imposed or issued by the State Board of Towing.

RULE TEXT:

- (1) The State Board of Towing will forward a Final Order to deny, suspend, revoke or refuse to renew a towing business certificate to the Department of Transportation 60 days after the date of a Final Order pursuant to ORS 822.280.
- (2) The Board will forward a Final Order to deny, suspend, revoke or refuse to renew a letter of appointment to the Department of State Police 60 days after the date of a Final Order pursuant to ORS 822.290.
- (3) A Civil Penalty and reasonable cost imposed by the Board becomes due and payable 10 days after the Notice imposing the civil penalty becomes a Final Order.
- (4) Civil Penalties and reasonable costs not paid within 60 days of the date of a Final Order will be referred to the Oregon Dept. of Revenue for collection pursuant to ORS 293.231.
- (5) Terms of Conditions under a Stipulated Agreement and Final Order or Voluntary Surrender of Certification are effective on the date of the Respondent's signature unless otherwise specified in the written agreement.
- (6) A Stipulated Agreement and Final Order, Voluntary Surrender, or other agreement between the Board and a Respondent settling a disciplinary case under agreed terms and conditions requires Board ratification and approval.

STATUTORY/OTHER AUTHORITY: ORS 293.231, ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995

STATUTES/OTHER IMPLEMENTED: ORS 293.231, ORS 822.265, ORS 822.280, ORS 822.290, ORS 822.995