



Oregon

John A. Kitzhaber, MD, Governor

Health Licensing Agency

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Website: www.Oregon.gov/OHLA

WHO: Oregon Health Licensing Agency
Environmental Health Registration Board

WHEN: May 6, 2011 – 10am

WHERE: Oregon Health Licensing Agency
Rhoades Conference Room
700 Summer St NE, Suite 320
Salem, Oregon

What is the purpose of the meeting?

The purpose of the meeting is to conduct regular board business. Please use appropriate language, manners and protocols when conducting board business. A working lunch may be served for board members and designated staff in attendance. A copy of the agenda is printed with this notice. Please visit <http://egov.oregon.gov/OHLA/EHS/meetings.shtml> for current meeting information.

Is the public or licensees allowed to attend the meeting?

Yes. Members of the public are invited and encouraged to be in attendance at all board/council meetings. All public audience members are asked to sign-in on the attendance roster prior to the meeting. Comments may be heard under public comment at the end of the meeting. Please wait to be recognized by the Chairperson prior to commenting.

Is it possible to watch the meeting live on the internet?

Yes. You may access the meeting at <https://oregon.ilinc.com/join/jjrxrfz> (Link provided is specific to this meeting date) If you need assistance accessing the meeting contact the “iLinc Join Help Desk” at 1-800-799-4510, and select option “1.”

What if the board/council enters into executive session?

Prior to entering into executive session the board/council chairperson will announce the nature of and the authority for holding executive session, at which time all audience members are asked to leave the room with the exception of news media and designated staff. Executive session would be held according to ORS 192.660.

No final actions or final decisions will be made in executive session. The board/council will return to open session before taking any final action or making any final decisions.

Who do I contact if I have questions or need special accommodations?

The meeting location is accessible to persons with disabilities. A request for accommodations for persons with disabilities should be made at least 48 hours before the meeting. For questions or requests contact a board specialist at (503) 373-2049.

All members are asked to please give at least 24-hour notice if they are unable to attend the meeting so arrangements may be made.



Oregon Health Licensing Agency
Environmental Health Registration Board



10 am, Friday, May 6, 2011
700 Summer Street N.E., Suite 320
Salem, Oregon

Revised 5/4/2011

Call to Order

1. Approval of Agenda

2. Approval of Minutes

- ◆ February 4, 2011

3. Reports

- ◆ Director's Report
- ◆ Outreach and Communication
- ◆ Statistical Report
 - Licensing, Active License Trends & Web Site Traffic
- ◆ 2009-2011 Budget
 - Revenues & Expenditures
- ◆ Regulatory Division Report
- ◆ Education & Examination Committee Update
 - Environmental Health Specialist Course Requirements
- ◆ Policy, Legislation & Administrative Rules
 - Policy & Legislation Update
 - Legislation & Rules Committee Update

Working Lunch

4. Items for Board Action

- ◆ Extend Public Comment through May 20, 2011
 - Examination requirement to become an environmental health specialist trainee
- ◆ Recommend Adoption of Permanent Administrative Rules
 - Trainee Extension Question
- ◆ Approve Environmental Health Trainee Supervisors

5. Public Comment

6. Other Board Business

- ◆ Board Interest File

7. Executive Session (If needed)

Agenda is subject to change.

For the most up to date information visit www.oregon.gov/OHLA

Approval of Minutes



February 4, 2011



Oregon Health Licensing Agency
Environmental Health Registration Board



10 am, Friday, February 4, 2011
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Jeffrey Hampton, Vice-Chair
Paul Cieslak
Jeff Freund
Caroline Gross-Regan

MEMBERS ABSENT:

Michael Kucinski, Chair
David Bussen

STAFF PRESENT

Randy Everitt, Director
Sylvie McMillan, Fiscal Services and Licensing Manager
David Sparks, Regulatory Operations Manager
Kraig Bohot, Public Information Officer
Samie Patnode, Policy Analyst
Nancy Sellers, Senior Policy Analyst
Cerynthia Murphy, Qualification Analyst
Sinnamon Harris, Board Specialist

GUESTS PRESENT:

Holly Skogley
Jim Solvedt

*This meeting was live audio streamed.

Call to Order

Jeffrey Hampton, Vice-Chair, called the meeting of the Environmental Health Registration Board to order at 10:06 am, Friday, February 4, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called. The board did not have a quorum established. At 10:14 am Caroline Gross-Regan joined the meeting and a quorum was established.

1. Approval of Agenda

MOTION:

Caroline Gross-Regan made a motion with a second by Dr. Paul Cieslak to approve the agenda. Motion passed unanimously.

2. Approval of Minutes

MOTION:

Dr. Paul Cieslak made a motion to approve the November 5, 2010, minutes with a second by Jeff Freund. Motion passed unanimously.

3. Reports

• Director's Report

Randy Everitt, Director, presented a letter from former Governor Ted Kulongoski addressed to the board expressing the former governor's sincere appreciation for the board's service and dedication during his administration.

Everitt described the new audiovisual broadcast of today's full board meeting to the members and how stakeholders would be able to gain access via their own computers. Everitt pointed out the system is still in its testing phase and in the near future a link will be available on the OHLA website for interested parties to log in to listen and see the board meetings live.

• Outreach and Communications

Kraig Bohot, Public Information Officer, presented an outline of his *Central Issues* publication revolving around environmental health regulation, including: DEQ Required Registration for Specific Classification Types (field inspectors), Required Registration for Other Professionals (nursing home food inspectors), Clarify the Scope of Practice for an Environmental Health and Waste Water Specialist, National Environmental Health Registration (NEHA) Credentialing 3 Tiers, and Clarifying DEQ New Onsite Residential Septic System Evaluation and DEQ Standards for Time of Transfer Evaluations for ATT Systems. Bohot mentioned the January 24, 2011, article posted online from the Statesman Journal entitled, "Inspections ensure, preserve cleanliness" by Dennis Thompson, Jr. would be included with the *Central Issues* publication. The article featured OHLA Inspector Trampus Schuck and spoke about the inspections of cosmetology facilities in a question/answer format. Bohot would email the draft publication to board members for review and requested the board members to respond with their feedback.

• Statistical Report

Sylvie McMillan, Fiscal Services and Licensing Manager, presented an overview of statistics related to the board. Statistics included were licensing, examination and regulatory statistics, active license trends, complaints, age diversity in practitioners, gender of licensees, and website traffic. Freund asked how many were in the retirement age bracket. The statistics of permanent environmental health specialists (EHS) and waste water specialist (WW) show 71 out of 190 registrants between the ages of 58 - 65 and nine between the ages of 66 -73. McMillan noted there was only one in the 18 - 25 age bracket. Everitt told the board that it will feel the impact of those retirees in a biennium from now. Everitt stated the agency is willing to work with the board to conduct outreach etc. in order to bring those numbers of active registrants up. McMillan presented the statistics for environmental health and waste water trainees and noted 32 will soon be registering.

• 2010-2011 Budget

McMillan reviewed the statement of cash flow for the period 7/01/09 – 12/31/10 with the board. McMillan pointed out where the cost allocation changed for the small board assessment rate on October 1, 2010, because the Regulatory Operations Division was removed from the indirect rate to direct costs. McMillan presented the statement of cash flow projections for the 7/01/09 – 6/30/2011 biennium.

Caroline Gross-Regan asked what happens when the registrants retire. McMillan said the registration fees may go up if there aren't enough new registrants to replace those who retired.

Board members inquired how many registrants would be needed for the fees not to rise. "Who needs to be registered?" asked Dr. Paul Cieslak. Dr. Cieslak also asked to see an extra line on the statistics report presented that represents how many are not renewing or how many registrations expired.

- **Regulatory Operations Division Report**

David Sparks, Regulatory Operations Manager, reported on enforcement activity. The current regulatory reporting period was November 5, 2010 through January 31, 2011. The agency had received no complaints during this reporting period.

- **Education and Examination Committee Update**

Cerynthia Murphy, Qualification Analyst, stated the Education and Examination Committee has met four times so far to review the waste water examination and are about halfway through the 420 examination questions within the item bank. There will be at least three more meetings to go in order to complete the review. It has been a lot of work because the examination had not been reviewed since 1996.

Jeff Freund asked if the cost to maintain the waste water examination for nine registrants is worth the effort of the Examination Committee and agency staff. Freund asked if it is possible to specialize registration with environmental health such as a food inspector registration. Samie Patnode, Policy Analyst, stated that it is possible to have specialty certification; however, it would be a lengthy process to create scope of practice, qualification and examination standards as well as regulatory oversight. Patnode gave a brief history of the process and political circumstances which surrounded the creation of the waste water specialist registration in 1995.

- **Policy, Legislation and Administrative Rules**
-Legislative Overview

Nancy Sellers, Senior Policy Analyst, presented a memorandum outlining an overview of the legislative process and the role of the board member in this process.

Hierarchy of Law Governing State Agencies

- US and Oregon Constitutions
- Oregon Revised Statutes
 - *Oregon Laws*
 - *Budget Notes*
- Governor's Executive Orders/Agency Directives
- Oregon Administrative Rules
- Agency Policies
- Agency Practices

OHLA works closely with the Governor's Office, Department of Administrative Services, partner agencies, stakeholder groups and the Legislature to ensure that all bills, potential amendments and budgets that may impact the agency and its stakeholders are fully vetted and understood.

Sellers made it clear to the board that as OHLA board members they can be a great asset in the legislative process. The board members often play a dual role: both as agents of the state in their official capacity with OHLA, and as private citizens working in their individual professions. If a legislator, staffer or other agent of the Legislature contacts a board member directly regarding policies and legislation of the agency, please clarify with him or her that you are speaking as an individual, and not as a representative of the regulatory/advisory board of which you are a member.

Persons acting as agents of the executive branch of government – including agency management, employees and appointed board and council members – are not allowed to advocate for or against legislation, budgets or other legislative initiatives without the express permission of the Governor's Office.

Sellers reminded board members that if legislators or staffers are looking for an *official response*, please direct them to her or Samie Patnode, Policy Analyst, and they will follow-up promptly, and keep the board informed.

-House Bill 2144 Update

Samie Patnode, Policy Analyst, passed out copies of HB 2144 pointing out Section 356, line 19, on page 28, which would allow internships for the environmental health profession. Patnode said if the bill is passed out of the Legislature and the Governor signs the bill, then the agency and the Legislation and Rules Committee would be able to write rules implementing the internship standards. Patnode said an internship may be another route for bringing new people into the profession.

-Temporary Administrative Rules – March 1, 2011, One Year Registration

Patnode presented a brief overview of the temporary rules to be filed on March 1, 2011. On November 5, 2010, the board proposed going from a two-year renewal cycle to a one-year cycle in order to reduce the financial burden imposed on environmental health and waste water specialists including state and local governments with employees who are required to be registered and who incur the cost of renewal.

-Legislation and Rules Committee Update

Patnode gave a brief overview of the January, 7, and January 20, 2011, Legislation and Rules Committee meetings.

On January 7, 2011, the committee discussed and strategized the most appropriate way to begin the rulemaking process as it related to duties of an environmental health specialist. The committee asked Holly Skogley to be an invited subject matter expert regarding the food industry, since currently there is no county employees inspecting restaurants on the committee. The committee decided to wait to invite any other experts, such as Deputy Director of Oregon Department of Environmental Quality Joni Hammond, Susan Kendrick of the Department of Agriculture or someone from the Department of Human Services (DHS), until the committee could agree on a definition to use as a starting point for discussion with those individuals and agencies. The committee reviewed application requirements, examination information, training standards, and supervision requirements.

At the January 20, 2011, Legislation and Rules Committee meeting the committee continued to review duties of an environmental health specialist. Meetings have been scheduled to complete the process.

4. Items for Board Action

-Approve Proposed Administrative Rules

Patnode made changes to the proposed administrative rule document as instructed by the board during the meeting. She also recommended scheduling two more Legislation and Rules Committee meetings to continue to review administrative rules. A recommendation for proposed administrative rule fiscal impact was also included in the issue statement. Patnode asked for a motion to approve the proposed administrative rules regarding OAR Chapter 338 Divisions 005-030.

MOTION:

Jeff Freund made a motion to move forward with the rulemaking procedures with a second by Dr. Cieslak. The motion passed unanimously.

The board agreed on March 24, and April 18, 2011 for Legislation and Rules Committee dates.

5. Public Comment

Holly Skogley, REHS, representing Linn County, commented on HB 2144. She said she wished to point out to the board in the cosmetology section 37, line 4, page 21, OHLA is proposing to put cosmetology as one of the statutorily mandated inspections to be performed by OHLA. Skogley stated currently, under ORS 690, it is required that OHLA provides for those inspections of cosmetology facilities and HB 2144 would statutorily mandate that OHLA actually perform the inspections. Patnode explained that HB 2144, cosmetology section 37, line 4, page 21, is not changing what the agency currently does; it is just adding a fifth field-of-practice, cosmetology. Patnode clarified the change Skogley referred to was only relevant to Department of Education Private Career Schools, who contract with the agency for safety and infection control inspections.

Skogley commented that she had filed a complaint with OHLA Regulatory Operations Division regarding cosmetology facilities being inspected by unqualified personnel and during the report section of the board meeting that complaint did not appear.

Everitt addressed Skogley's question and stated he did not consider it a complaint but a policy issue as it is the agency's statutory mandate that we may provide for inspections. He stated once the Legislation and Rules Committee meet and define environmental specialist duties the agency will not engage in conversation regarding this issue.

Jim Solvedt, Environmental Health Supervisor of Polk County Environmental Health, representing Oregon Environmental Health Association (OEHA) commented that the concern of OEHA is that the examination has become very difficult for those people who have been specializing in specific areas, such as food safety for example, because they do not have the work experience in other areas. OEHA is trying to prevent specializing and is after a more generalized environmental health specialist so as to prevent hurting the public health in general. The counties prefer environmental health specialist because they have to be able to be cross-trained in other areas. It's a funding issue.

Cerynthia Murphy, Qualification Analyst, remarked at the last board meeting it was voted on to leave the waste water specialist and environmental health specialist as two separate entities. Based on history, duties, and education the board felt it should keep them separate. Currently, stated Murphy, the law allows an environmental health specialist to do the duties of a waste water specialist, but a waste water specialist cannot do the duties of an environmental health specialist. Murphy explained that during a

discussion at one of the Education and Examination Committee meetings, the waste water specialist felt that if environmental health specialists were going to continue to perform those duties of a waste water specialist they should be required to take the waste water examination.

6. Other Board Business/Board Interest

Dr. Cieslak asked Everitt if he had any feedback from Everitt's letter to Dr. Mel Kohn, Director of the Department of Human Services. Everitt said Dr. Kohn has referred him to his policy expert, Gail Shipley. Also Everitt had met with Deputy Director of Oregon Department of Environmental Quality Joni Hammond, and she is willing to meet with the board or Legislation and Rules Committee upon request.

7. Executive Session-Place Holder

The board did not enter into executive session.

The meeting adjourned at approximately 12:56 pm.

Prepared by: Sinnamon Harris, Board Specialist

Director's Report

Outreach and Communication



Overview of Public Information Activities at OHLA

Board members are probably aware of the flagship electronic publication focusing on key issues of OHLA-regulated professions, called *Central Issues*, but what are the other activities that constitute the public information program at OHLA?

Here's a quick snapshot:

Licensing Line – OHLA's electronic news digest highlights agency-wide issues and developments in OHLA-regulated professions.

Print Publications – Agency and profession-specific brochures, reports and fact sheets provide information dissemination beyond the online world.

OHLA Website – With unique sections for each board, council and profession OHLA oversees, the agency website features more than 50 global pages (agency-wide information) and more than 270 total pages, not counting external links, photos and PDF / Word files.

Media Relations – From responding to media inquiries to proactively issuing news releases to monitoring media coverage, OHLA informs and clarifies licensing and regulatory issues.

Presentations – Need a PowerPoint? Communications delivers.

Public Record Requests – OHLA responds to numerous public record requests for licensing and regulatory information on licensees and agency and board/council activities.

Application Forms – Communications develops and maintains application forms for all OHLA-regulated professions and agency-wide forms.

Kraig Bohot / OHLA Communications

503-373-1939 – *direct line*

kraig.bohot@state.or.us

www.oregon.gov/OHLA

Statistical Report

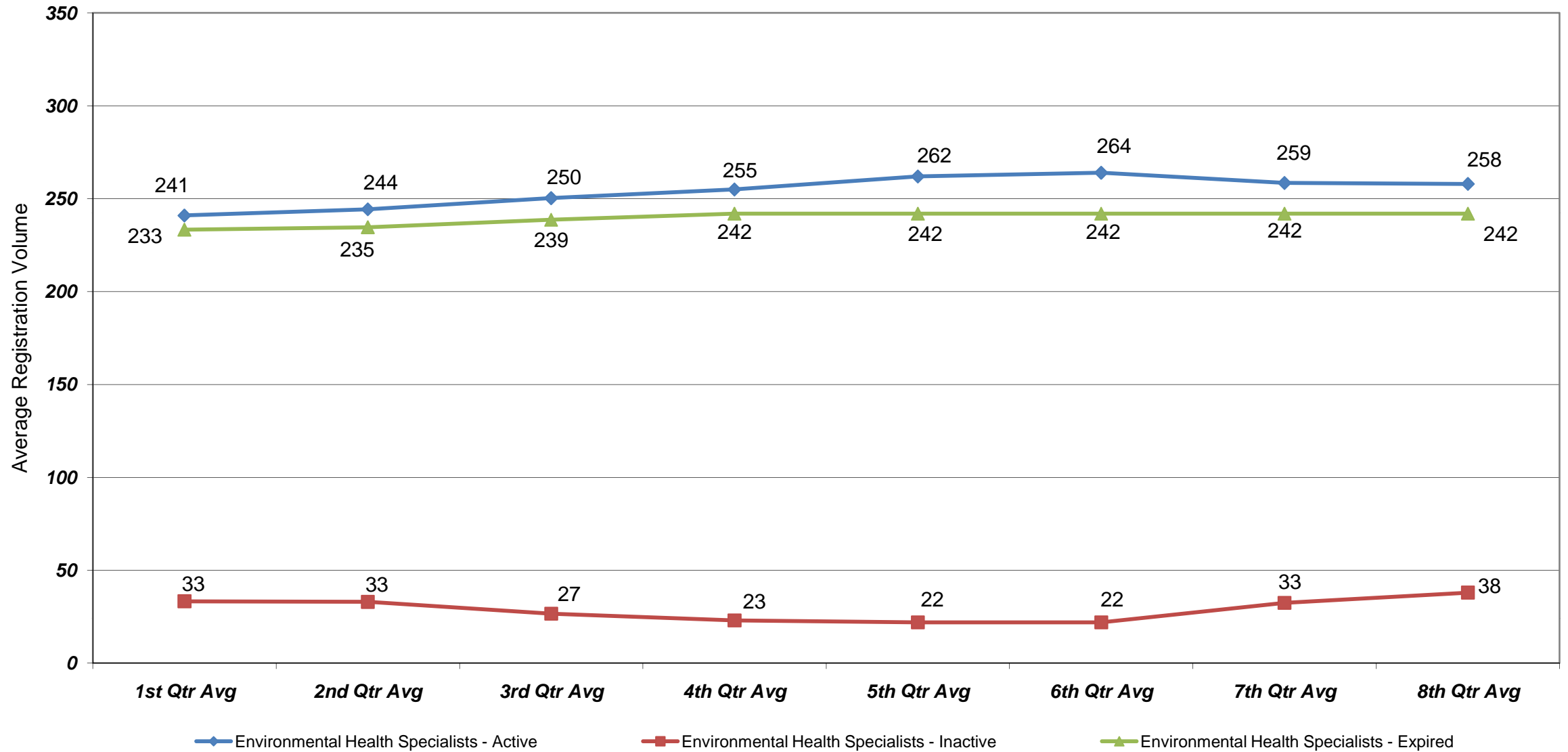


**Licensing, Active License Trends &
Web Site Traffic**

Oregon Health Licensing Agency

Environmental Health Registration Board

Average Active, Inactive and Expired Registrations through April 2011 2009-11 Biennium

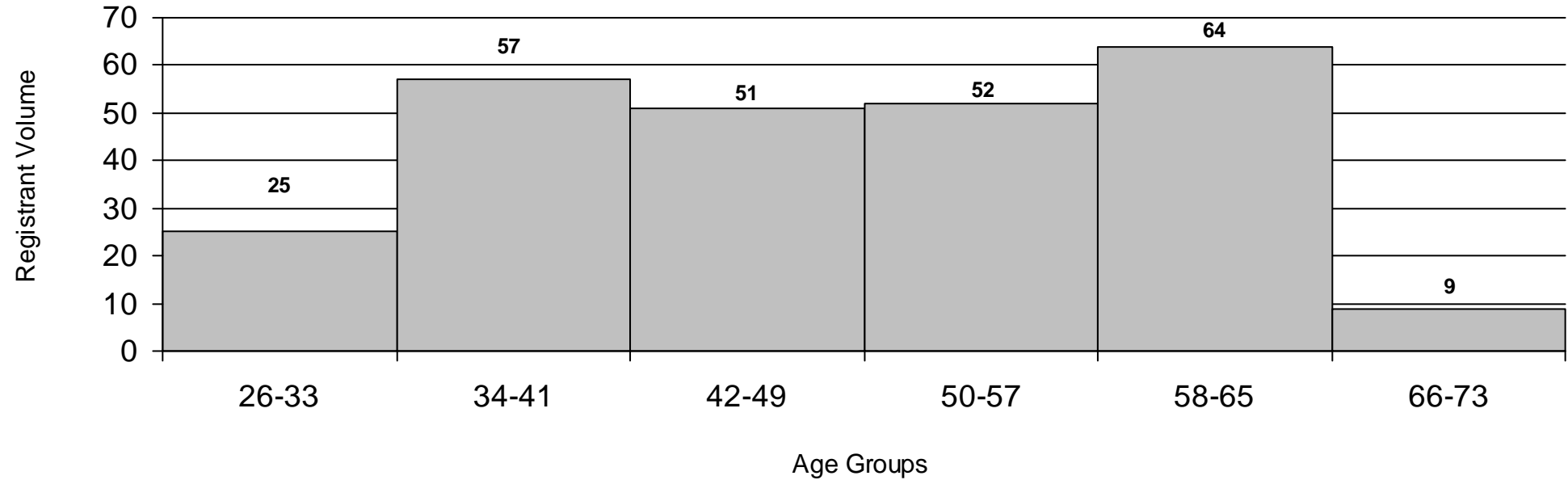


Oregon Health Licensing Agency

Registered Environmental Health Board

Permanent Environmental Health and Waste Water Specialists

Quantified by age group
as of April 2011



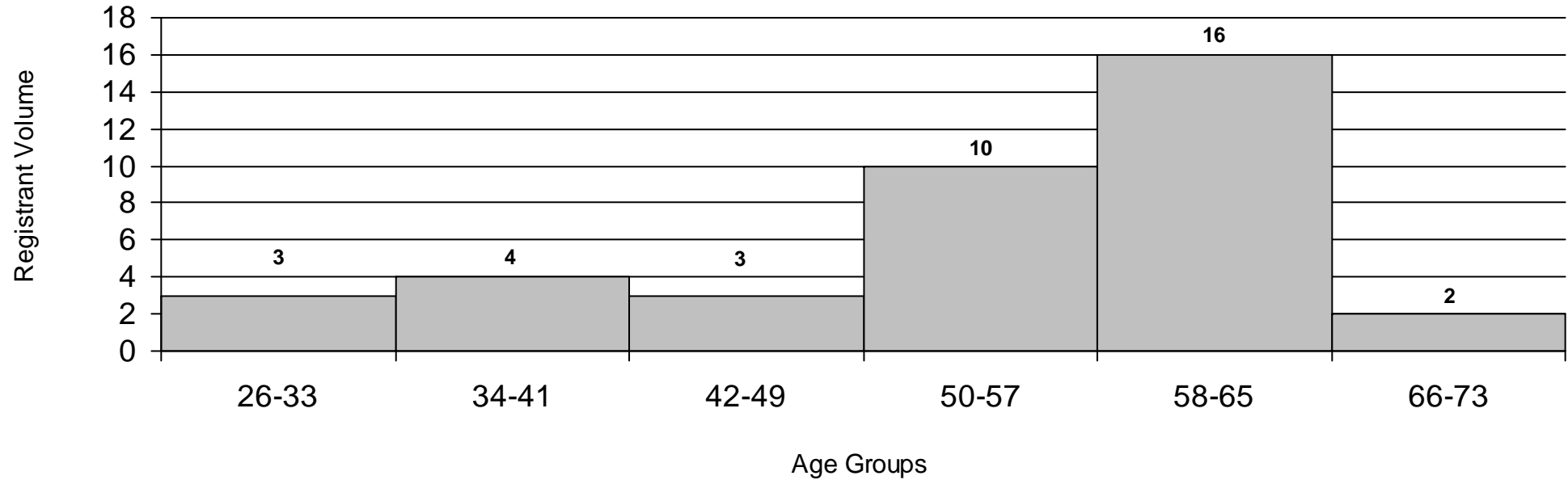
Active Status

Oregon Health Licensing Agency

Registered Environmental Health Board

Permanent Environmental Health and Waste Water Specialists

Quantified by age group
as of April 2011



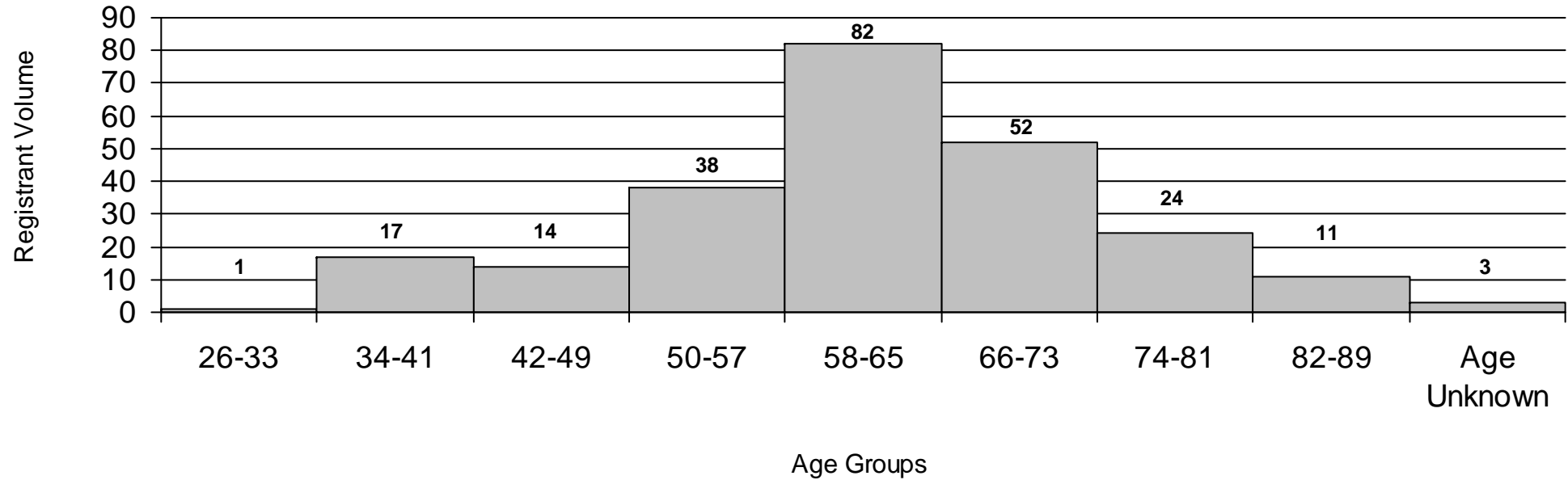
Inactive Status

Oregon Health Licensing Agency

Registered Environmental Health Board

Permanent Environmental Health and Waste Water Specialists

Quantified by age group
as of April 2011



Expired Status

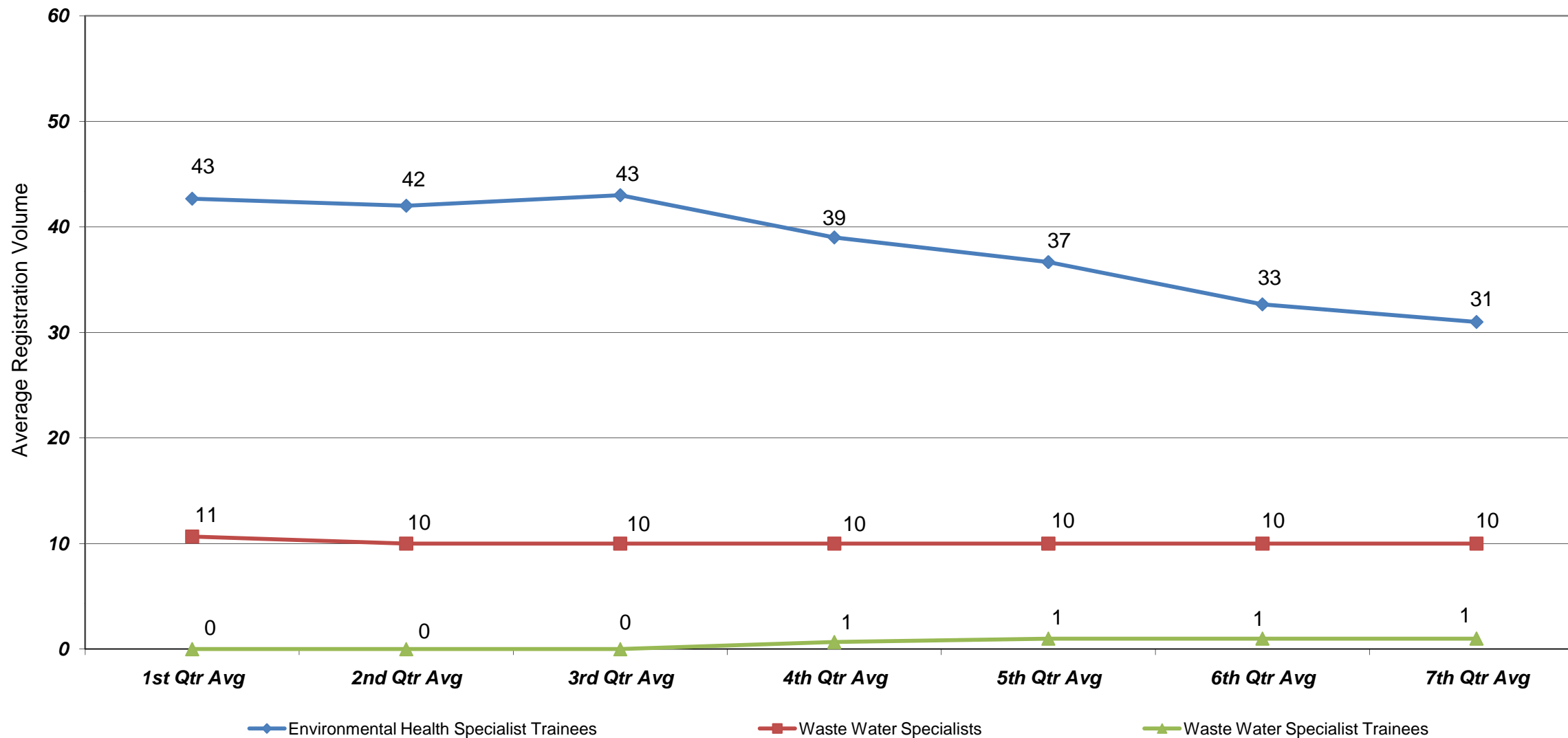
Oregon Health Licensing Agency

Environmental Health Registration Board

Environmental Health Specialist Trainees, Waste Water Specialists and Waste Water Trainees

Average Active Registrations held through April 2011

2009-11 Biennium

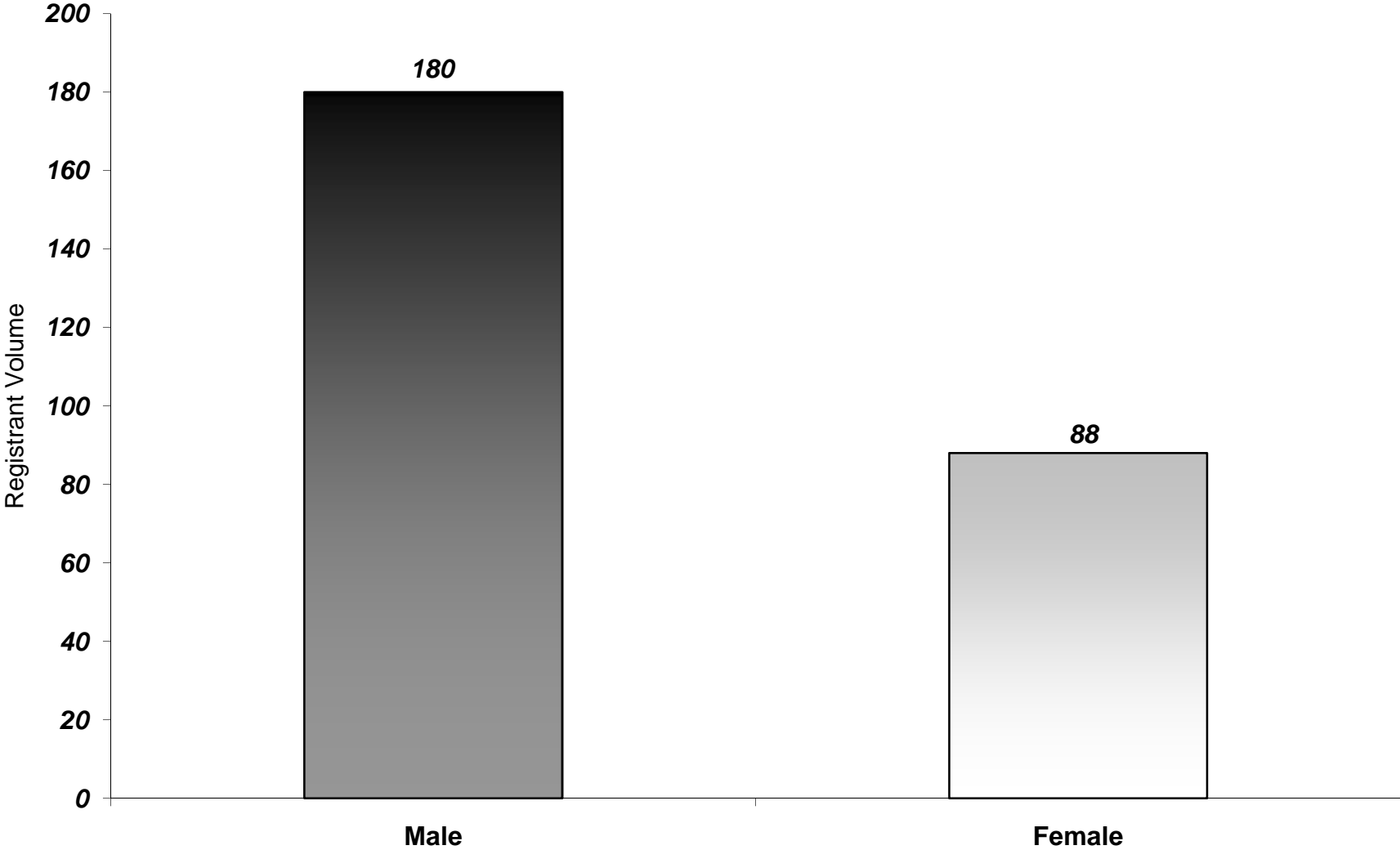


Oregon Health Licensing Agency

Environmental Health Registration Board

Active Environmental Health and Waste Water Specialists

by gender as of April 2011

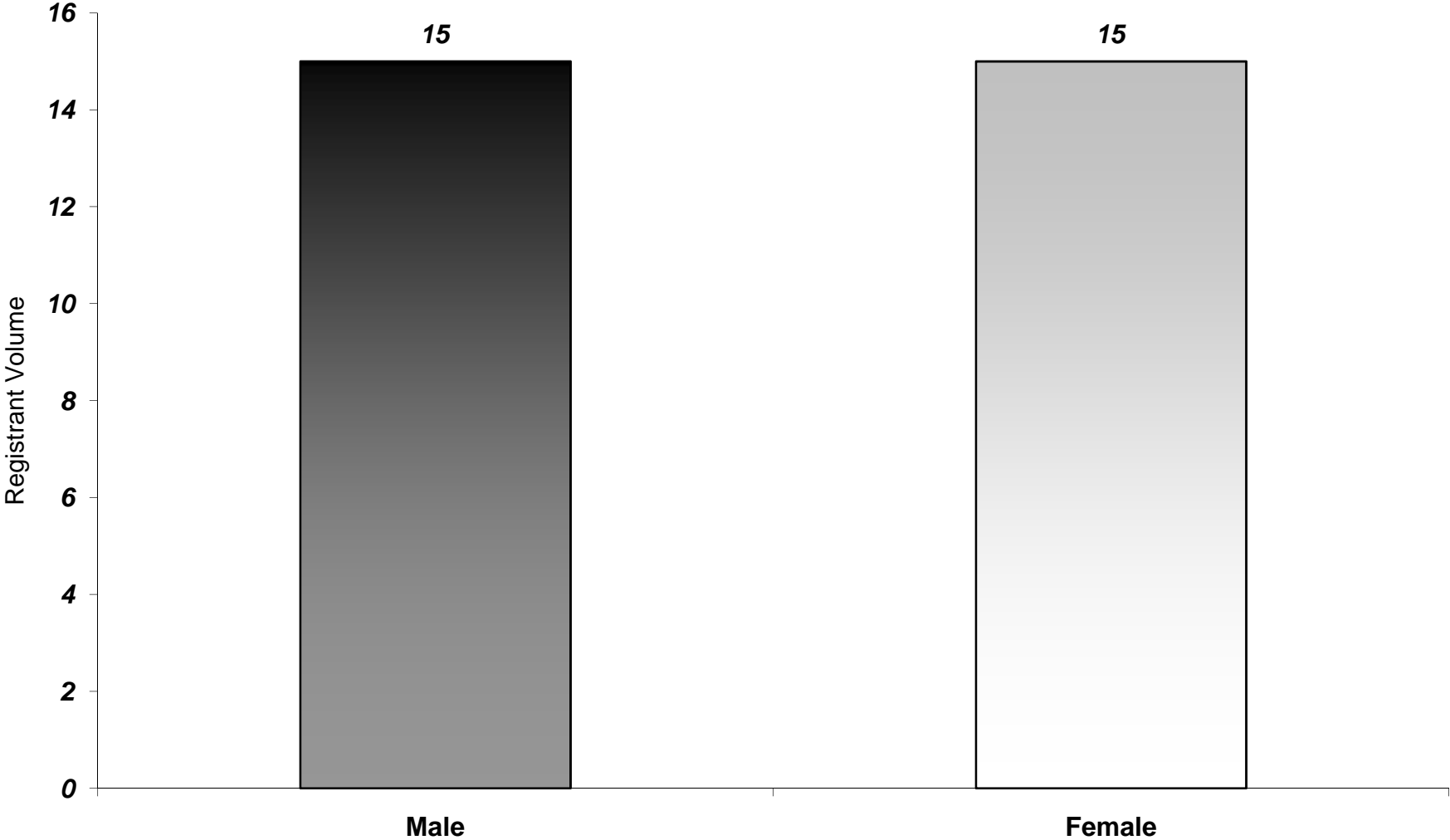


Oregon Health Licensing Agency

Environmental Health Registration Board

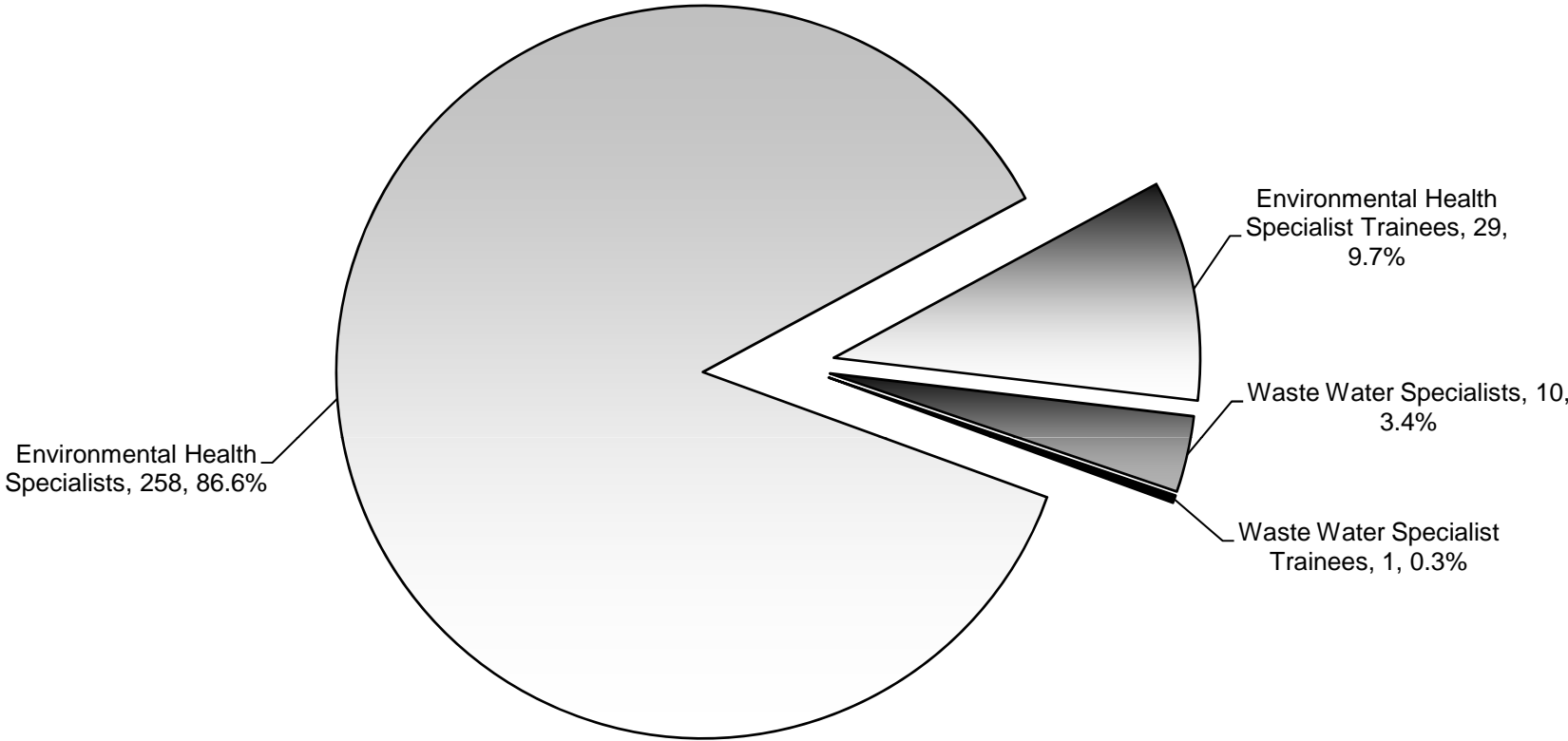
Active Environmental Health and Waste Water Specialist Trainees

by gender as of April 2011



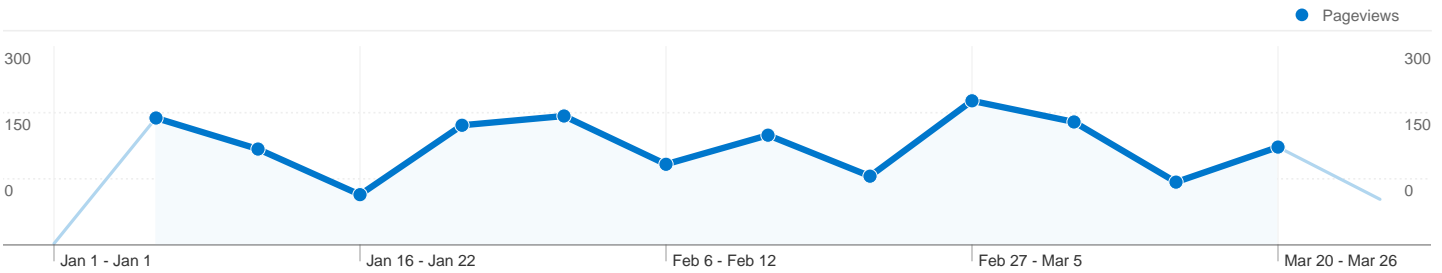
Oregon Health Licensing Agency

Environmental Health Registration Board Registration Breakdown - April 2011



□ Environmental Health Specialists	□ Environmental Health Specialist Trainees
■ Waste Water Specialists	■ Waste Water Specialist Trainees

Total Active Volume: 298



83 pages were viewed a total of 1,899 times

Pivoted by 40 sources

Filtered for pages containing "/OHLA/EHS"

Content Performance						
Pageviews 1,899 % of Site Total: 1.39%	Unique Pageviews 1,553 % of Site Total: 1.43%	Avg. Time on Page 00:01:01 Site Avg: 00:01:16 (-18.63%)	Bounce Rate 53.75% Site Avg: 46.25% (16.21%)	% Exit 37.02% Site Avg: 35.60% (3.98%)	\$ Index \$0.00 Site Avg: \$0.00 (0.00%)	
Pivot by: Source						1 - 5 of 40
	Total	google	(direct)	oregon.gov	licenseinfo.oregon.gov	bing
Page	Pageviews	Pageviews	Pageviews	Pageviews	Pageviews	Pageviews
/OHLA/EHS/index.shtml	345	129	74	81	0	27
/OHLA/EHS/How_to_Get_Licensed.shtml	245	99	34	30	36	14
/OHLA/EHS/forms.shtml	142	35	22	44	12	5
/OHLA/EHS/EHRBContinuingEducation.shtml	100	39	25	20	1	1
/OHLA/EHS/EHSlaws_rules.shtml	97	26	37	14	3	7
/OHLA/EHS/meetings.shtml	90	12	20	42	1	3
/OHLA/EHS/contact_us.shtml	87	24	34	17	3	3
/OHLA/EHS/ehsfees.shtml	78	19	22	17	12	1
/OHLA/EHS/docs/EHRB_Continuing_Education/EHS_CE_LOGSHEET_2010.pdf	64	9	35	13	0	1
/OHLA/EHS/about_us.shtml	60	27	8	14	1	0
						1 - 10 of 83

2009-2011 Budget



Revenues & Expenditures

Oregon Health Licensing Agency

Environmental Health Registration Board

Cumulative Revenue and Expenditures

For the Biennium 2009-2011

OREGON HEALTH LICENSING AGENCY ENVIRONMENTAL HEALTH FUND 7550 STATEMENT OF CASH FLOWS - Actuals FOR THE PERIOD 07/01/09 - 3/31/11	
09-'11 Beginning Cash Balance	16,822.77
Revenues	81,225.63
Expenditures	108,474.32
Less: Accrued Expenditures	(143.25)
Less: Total Expenditures	(108,331.07)
Subtotal: Resources Available	(10,282.67)
Change in (Current Assets)/Liabilities	(7.36)
Ending Cash Balance (Actual)	(10,290.03)
Cost Allocation 7/1/2009 - 1/31/2010	
Small Board Assessment Rate	1.60%
License Volume / Workload Complexity Rate	0.50%
	2.10%
Cost Allocation 2/1/2010 - 9/30/2010	
Small Board Assessment Rate	1.60%
License Volume / Workload Complexity Rate	0.60%
	2.20%
Cost Allocation 10/1/2010 - 6/30/2011	
Small Board Assessment Rate	1.50%
License Volume Rate	0.43%
Indirect Rate for - DO / BSD / LICEN	1.93%
Regulatory Usage Costs	

Oregon Health Licensing Agency

Environmental Health Registration Board

Cumulative Revenue and Expenditures

For the Biennium 2009-2011

OREGON HEALTH LICENSING AGENCY ENVIRONMENTAL HEALTH FUND 7550 STATEMENT OF CASH FLOWS - Projections FOR THE PERIOD 07/01/09 - 06/30/11		
09-'11 Beginning Cash Balance	\$	16,822.77
Revenues	\$	95,375.63
Expenditures	\$	124,520.31
Less: Accrued Expenditures	\$	-
Less: Total Expenditures	\$	(124,520.31)
Subtotal: Resources Available	\$	(12,321.91)
Change in (Current Assets)/Liabilities	\$	-
Ending Cash Balance (Projected)	\$	(12,321.91)
Cost Allocation 7/1/2009 - 1/31/2010		
Small Board Assessment Rate		1.60%
License Volume / Workload Complexity Rate		0.50%
		2.10%
Cost Allocation 2/1/2010 - 9/30/2010		
Small Board Assessment Rate		1.60%
License Volume / Workload Complexity Rate		0.60%
		2.20%
Cost Allocation 10/1/2010 - 6/30/2011		
Small Board Assessment Rate		1.50%
License Volume Rate		0.43%
Indirect Rate for - DO / BSD / LICEN		1.93%
Regulatory Usage Costs		

**Regulatory
Operations Division
Report**



**Oregon Health Licensing Agency
Regulatory Operations Division**

ENVIRONMENTAL HEALTH REGISTRATION BOARD

**Regulatory Operations Division Report
May 6, 2011**

The current regulatory reporting period is February 1, 2011, through April 29, 2011. The Agency has received no complaints during this reporting period.

**Education &
Examination
Committee Update**



Oregon

John A. Kitzhaber, MD, Governor

Health Licensing Agency

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Salem, Oregon 97301-1287

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MEMORANDUM

To: Environmental Health Registration Board
Cc: Randall Everitt, Director
From: Cerynthia Murphy, Qualification Analyst
Date: 04-27-2011
Re: Environmental Health Specialist Soil Science Course Requirements

During the February 4, 2011 board meeting, board members discussed what percentage of credits is required in soil science to obtain a bachelors of science degree.

In reviewing several educational institutions, agency staff determined there are no minimum credit requirements in soil science to obtain a bachelor's of science degree.

The Education and Examination Committee will be meeting to establish a list of specified course and credit requirements, using the current list of board-approved science courses, to ensure applicants are taking courses which provide an overall understanding of the basic components of environmental health to obtain registration.

The committee's recommendations will be presented to the full board for approval.

Policy, Legislation & Administrative Rules

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES

A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on March 1, 2011 by the
Date prior to or same as filing date

Oregon Health Licensing Agency OAR 331
Agency and Division Administrative Rules Chapter Number

Samantha Patnode, Policy Analyst 700 Summer St. NE, Suite 320, Salem, OR 97301-1287 503-373-1917
Rules Coordinator Address Telephone

to become effective March 17, 2011 through August 28, 2011
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Investigatory appearances before the agency and active military status protocols for authorization holders.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT: 331-010-0050

AMEND: 331-020-0040

SUSPEND:

Stat. Auth.: ORS 676.615

Other Auth.: ORS 408.450

Stats. Implemented: ORS 676.607, 676.608, 408.450

RULE SUMMARY

The purpose of this temporary rule is to clarify what constitutes an appearance before the agency during investigations of alleged violations of statutes or rules under the authority of the agency, its boards or councils.

The purpose of this temporary rule is to allow authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status.

Authorized Signer Randall Everitt, Director 3/16/2011
Printed name Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

ARC 940-2005

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Health Licensing Agency
Agency and Division

OAR Chapter 331
Administrative Rules Chapter Number

In the Matter of:
ADOPT: 331-010-0050

AMEND: 331-020-0040

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Investigatory appearances before the agency and active military status protocols for authorization holders.

Statutory Authority: ORS 676.615
Other Authority: ORS 408.450
Stats. Implemented: ORS 676.607, 676.608, 408.450

Need for the Temporary Rule(s):

The temporary rule is necessary to properly implement the agency's investigative protocol, used for regulatory investigations of matters related to all of the professions under the authority of the agency, its boards and councils.

A new investigative protocol was implemented on or about August 30, 2010, for all agency programs. All individuals who are subjects of a complaint made to the Oregon Health Licensing Agency, its boards, or its councils are subject to this protocol, which was designed to ensure efficiency, consistency and fairness in all agency investigations. However, to properly implement the steps of the investigatory protocol, the agency needs to clarify what constitutes an appearance before the agency. Investigatory appearances before the agency are accompanied by a distinct set of rights for the subjects of investigations and requirements for the agency under ORS 676.608(8), but neither statute nor rule currently describes which activities constitute such an "appearance," impeding consistent implementation of appearance requirements under the appropriate protocol step by agency staff, and preventing subjects of investigations from clearly understanding when their appearance rights are triggered. A rule clarifying what activity constitutes an "appearance" would provide staff clear guidelines regarding when to fulfill investigatory appearance requirements, and would inform the subjects of investigations when, within the protocol steps, their appearance rights are triggered. The agency must act promptly on this matter because the investigative protocol has already been implemented and is being used in all investigations.

The temporary rule is necessary to allow authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status.

Documents Relied Upon, and Where They Are Available:

Documents relied upon by the agency are the investigative protocols and assistant attorney general advice.

All documents are available at the Oregon Health Licensing Agency 700 Summer Street NE, Suite 320, Salem, OR 97301-1287. To obtain information or copies of information please contact Samantha Patnode, Policy Analyst, at 503-373-1917, during normal business hours Monday Through Friday between 7:30am to 4:30pm. Email: samie.patnode@state.or.us

Justification of Temporary Rule(s):

The temporary rule is necessary to acknowledge federal standards for authorization holders in active military status and provide clarity regarding appearance before the agency as it relates to investigations and the investigative protocol.

	Randall Everitt, Director	3/16/2011
Authorized Signer	Printed name	Date

OREGON HEALTH LICENSING AGENCY

DIVISION 10

AGENCY GENERAL ADMINISTRATION RULES

331-010-0050

Authorization Holders; Military Leave

(1) A practitioner authorized to practice under a program listed in ORS 676.606 is not required to renew the authorization or pay renewal fees while in active military service unless required by the authorization holders branch of the military.

(2) To be restored to former authorization status the authorization holder must notify the agency in writing within 60 days of being honorably discharged.

(3) No fees will be due until the following renewal period.

(4) Requirements for completing continuing education hours during an authorization holder's active duty period shall be evaluated on a case by case basis.

DIVISION 20

AGENCY REGULATORY OPERATIONS RULES

331-020-0040

Complaint Processing and Investigation

Pursuant to ORS 676.608, complaints filed with the Oregon Health Licensing Agency will be handled as follows:

(1) The agency will determine if the complaint is related to a profession or occupation regulated and administered by the agency and the complaint falls within authority delegated to the agency by statute.

(2) The agency investigator(s):

(a) Will review the information and as applicable, interview parties and witnesses, and examine physical evidence relating to the complaint;

(b) Will advise on whether an authorization holder or other individual practiced within the acceptable standards of the particular program;

~~(c) May attempt to informally resolve the matter;~~

~~(d)~~ (c) Will make recommendations for agency action.

(3) After receiving advice from the investigator(s), the agency will determine what action will be taken in accordance with ORS 676.608.

(4) As used in ORS 676.608(8), to "appear before the agency" includes: an investigative interview conducted on agency premises or before a board, council, or subcommittee of a board or council; any depositions authorized by the agency; pre-hearing conferences; contested case hearings; and appearances compelled by subpoena. It does not include an investigative interview conducted telephonically or outside of agency premises.

Stat. Auth.: ORS 183, 676.605, 676.608, 676.615
Stats. Implemented: ORS 183, 676.605, 676.608, 676.615
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2009, f. & cert. ef. 6-1-09

OREGON HEALTH LICENSING AGENCY



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Technicians

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Therapists

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Therapists

Tattoo Artists

Waste Water
Specialists

Board of Athletic
Trainers

Board of
Cosmetology

Board of Direct Entry
Midwifery

Board of Denture
Technology

Environmental
Health Registration
Board

Nursing Home
Administrators Board

Respiratory
Therapist Licensing
Board

Sex Offender
Treatment Board

Advisory Council on
Hearing Aids

Advisory Council for
Electrologists,
Permanent Color
Technicians & Tattoo
Artists

Administrative Rulemaking Schedule

March 1, 2011

Temporary Administrative Rules
effective

June 1, 2011

Notice of Proposed Rulemaking in
Oregon Bulletin

June 28, 2011

Last day for public comment

August 15, 2011

**Permanent Administrative rules
effective**

August 28, 2011

Temporary Rule Expires

Visit us on the Web at www.oregon.gov/OHLA

Legislation & Rules Committee Update



Oregon Health Licensing Agency Environmental Health Registration Board Legislation/Rules Committee Meeting

Date: March 24, 2011

Members Present: Mike Kucinski
Dr. Paul Cieslak
Holly Skogley, Invited Expert

Members Absent: Jeffrey Hampton

Staff Present: Samie Patnode, Policy Analyst
Sinnamon Harris, Board Specialist
Sylvie McMillan, Fiscal Services and Licensing Manager

Guests Present: None

Mike Kucinski called the Environmental Health Registration Board Legislation & Rules Committee meeting to order at 9:12 am, March 24, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. The purpose of the meeting was to continue to review Oregon Administrative Rules Chapter 338 Division 5 through 30 including proposed administrative rules. Areas to be addressed include but are not limited to the following: clarify the scope of practice for environmental health specialists (EHS) and waste water specialists (WWS) and general maintenance to ensure consistency with agency and other program rules.

Samie Patnode, Policy Analyst, began the committee meeting with the discussion and review of Divisions 10 and 20. Minor revisions were made to verbiage and formatting. Patnode stated the agency has been working internally to streamline the registration process. The resulting revised three pathways to registration for EHS and WWS are based heavily on statute. Below are highlights of the discussions:

- Required qualifications listed under ORS 700.030(1)(b) include a graduate degree in “public or community health from an accredited college or university” not any other type of graduate degree. Historically, there had been questions and discussions in the past about other types of degrees but, according to statute; the qualification is not open for debate.
- Patnode will utilize internal documentation to draft a rule related to qualified work experience for applicants. Sylvie McMillan, Fiscal Services and Licensing Manager, explained the terms “current or pending” disciplinary action as it pertains to “Registration Pathway 2 –*Reciprocity*.” For example, if applicants had a citation with an outstanding civil penalty they would have to wait to be in good standing with the regulatory body of another state before Oregon would issue a registration.

- Patnode stated she would integrate qualified supervisors correlating the qualified work experience. Patnode commented on retake examination requirements noting that in ORS 700.050 if an applicant fails the examination a second time the agency in consultation with the board may require additional training to take the examination a third time. She asked if the additional training would be considered part of the 3840 trainee hours and if so how would they continue to work once the 3840 have been completed. Committee referred question to the assistant attorney general (AAG) noting the belief that the additional training would not be a part of the 3840 trainee hours.
- OAR 338-010-0050(5) limits six-month extensions to two. After discussion the committee decided to forward the issue of the addition of more than two six-month extensions to the full board.

Continuation of Review and Discussion of the Duties of an Environmental Health Specialist

The committee used the *Guide for Environmental Health Responsibilities and Competencies* to continue to glean areas to be included in the duties of an EHS discussion. Patnode created a list for consideration and more research. Dr. Paul Cieslak commented it may not be helpful to try and define the term “environment.”

What Jobs Are in the Duties of an EHS (committee’s ongoing working list)

List of Places not Currently Inspected:

Nursing home kitchen inspections
 Electrology, permanent color and tattoo facilities
 Body piercing facility
 Cosmetology facility
 Lead & Asbestos inspections
 Mobile home parks
 City or County playgrounds
 Amusement parks
 Housing inspections (large apartment complexes)
 Hospitals
 Tanning facilities? – (maybe EHS)

List of Places Currently Inspected in Oregon:

Day care centers – exemption but Dept of Employment requires
 All public schools - exemption but Dept of Education requires
 All restaurants in State of Oregon
 Pool and Spas – including apartment pool
 Public water supply (local systems)
 Hotels and Motels
 Organizational camps – Boy Scout – good example of all-encompassing of environmental health
 RV Park
 Septic system site evaluation and permitting
 Drinking water @ DHS (large systems) exception for (DEQ)

Skogley spoke about governmental exemptions and gave as an example Linn-Benton Community College (LBCC) culinary arts kitchen, which serves the student body, and are not required to be licensed or inspected. It was an attorney general opinion on a governmental entity exemption. Patnode stated she will check with the agency AAG for more information.

Cosmetology Inspection Issue Discussion

The committee discussed the issue of cosmetology facility inspections and the question if the inspections should fall under duties of an EHS. Kucinski stated it may be politically incorrect to state cosmetology inspections come under the purview of EHS duties but it needs to be considered and an official position by the agency and the board. Dr. Cieslak commented that the sense of the board should be a matter of record and whether the agency can or will pursue it is another matter as the agency must take into account other considerations. Kucinski noted if cosmetology inspections were deemed part of EHS duties the agency may have to provide for an “exemption” or the current four agency inspectors may need to be registered EHS. Kucinski remarked, in respect to the OHLA inspection certificate used by OHLA inspectors, the majority of the items inspected appear to be duties of an EHS.

Items for Discussion at Next Legislation and Rules Committee Meeting

The committee formulated some questions for the agency AAG to be discussed at the next Legislation and Rules Committee meeting:

- A. The intention of the committee is if more than one person is involved the one who has to be a registered EHS is the responsible party. The consultant does not have to be registered.
- B. If a government agency requires, for example, a permit, and contracts for the services of an EHS to perform the necessary inspection, the EHS must be registered if the government agency **substantially relies upon** the report.
- C. Does the board requirement of more hours after an applicant has failed the examination for the third time, supersede the 3840 hour maximum?

The meeting adjourned at approximately 12:23 pm.

Prepared by: Sinnamon Harris, Board Specialist

Items for Board Action

ISSUE

Determine whether if the supervisors possess equal qualifications to that of registered environmental health specialist.

DISCUSSION

According to the Oregon Statutes and Administrative Rules below, the board must determine if Yi-Cheng Su, Ph.D. and Yanyun Zhao, professors working at Oregon State University, Seafood Laboratory, who are not registered as Environmental Health Specialists possess the qualifications equivalent to Registered Environmental Health Specialists.

The board should consider the Oregon Revised Statutes and Oregon Administrative Rules listed below in determining qualifications.

700.010

(3) “Environmental health specialist” means a person who by education, training and experience in the sanitary, biological and physical sciences is qualified to perform duties in environmental sanitation, including but not limited to scientific investigation and education and counseling in environmental sanitation.

(5) “Environmental sanitation” means the art and science of applying sanitary, biological and physical science principles and knowledge to improve and control the environment and factors therein for the protection of the health and welfare of the public.

700.035

(4) An environmental health specialist trainee shall be supervised by a registered environmental health specialist or a person possessing equal qualifications as determined by the board. [1967 c.476 §5; 1983 c.189 §2; 1995 c.572 §9; 2003 c.547 §94; 2005 c.648 §106]

700.025 Persons not required to register. The provisions of ORS 700.020 (2) do not apply to:

- (1) Any person teaching, lecturing or engaging in research in environmental sanitation but only in so far as such activities are performed as part of an academic position in a college or university.

RECOMMENDATION

Determine through review of individual credentials that Yi-Cheng Su, Ph.D. and Yanyun Zhao possess equivalent qualifications to that of a registered environmental health specialist.

Public Comment

Other Board Business



Board Interest File

Executive Session

