

Chapter 1

Interim Amendment to the 2019 OSSC

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IMPLEMENTATION

Effective date (mandatorily applicable statewide):

April 1, 2021

Chapter 1 of the OSSC is an interim amendment to the **2019 OSSC** – and replaces the existing chapter in its entirety.

Insert pages are available on the Commercial Program webpage under Code Programs: [Oregon.gov/bcd](https://www.oregon.gov/bcd)

Reminder: Chapter 1 of the ORSC is incorporated into the 2021 iteration and is available on our Residential Program webpage.

Both chapters have been shared broadly since September with local government partners and other stakeholders.

SUMMARY CONCEPTS

Scoping policy

Doctrine of occupied field

Delegable authority

Local ordinances

**Utility service disconnection,
stop work orders & right of
entry**

SUMMARY CONCEPTS

Scoping *policy*: Unoccupied structures and occupied buildings

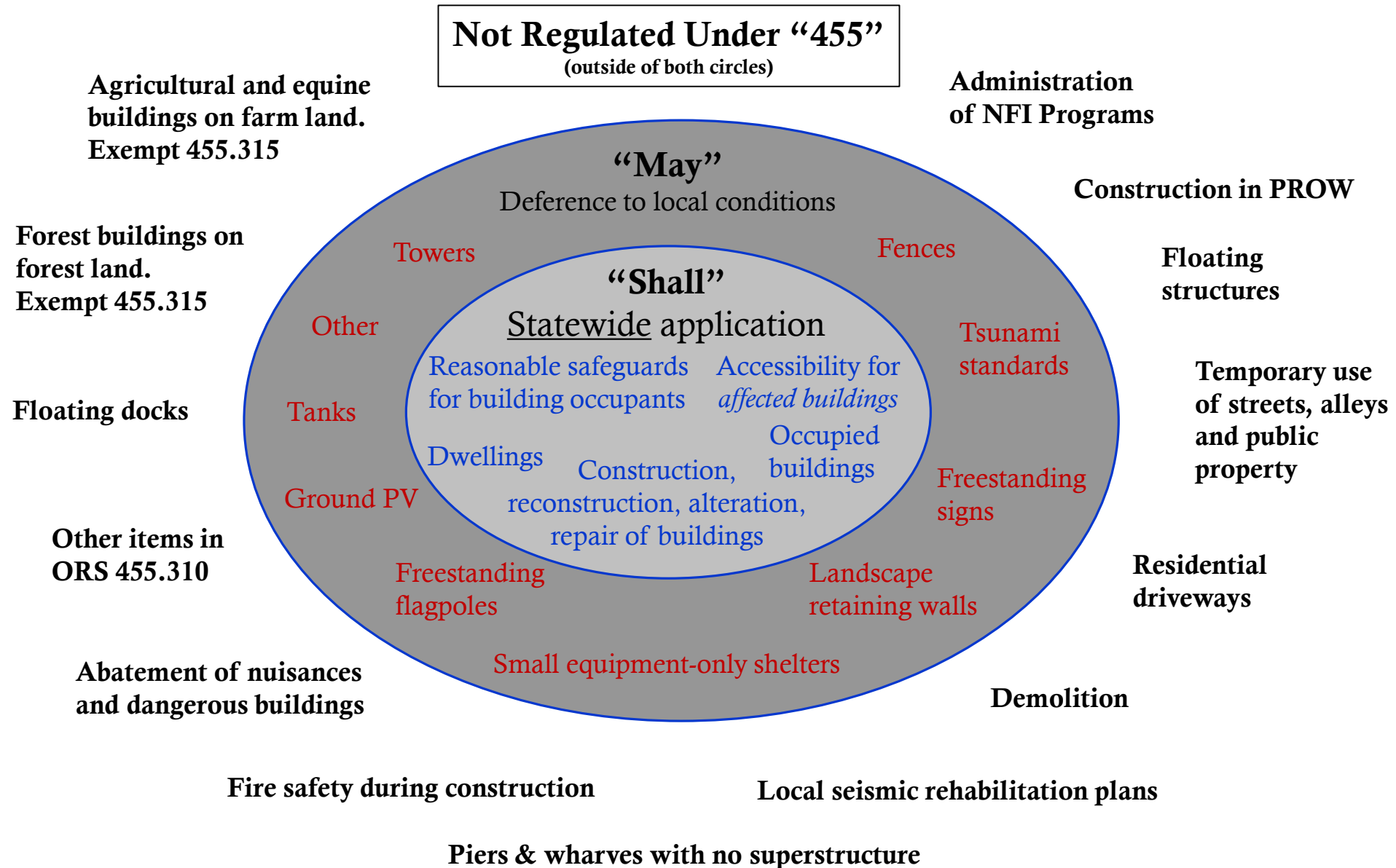
The “may” and “shall” statements of ORS 455.020 determine the framework for this policy and approach.

Reasonable safeguards for occupants and users of [occupied] buildings apply statewide under the state building code.

Deference to local policy makers regarding regulation of certain unoccupied structures provides flexibility and local regulatory options.

The scoping of Chapter 1 identifies these optional matters. Where regulated locally, the state building code provisions apply.

SUMMARY CONCEPTS



SUMMARY CONCEPTS

In applying the “**Doctrine of Occupied Field**,” the intent of the Legislature is presumed to be “deference to local conditions” whether urban or rural.

When the text of a preemption clause is susceptible to more than one plausible reading, the division relies on the plain reading that establishes maximum flexibility.

By drawing a distinction between “shall” and “may,” the Legislature has provided an opportunity for local delineation, based on local conditions, for certain unoccupied structures.

SUMMARY CONCEPTS

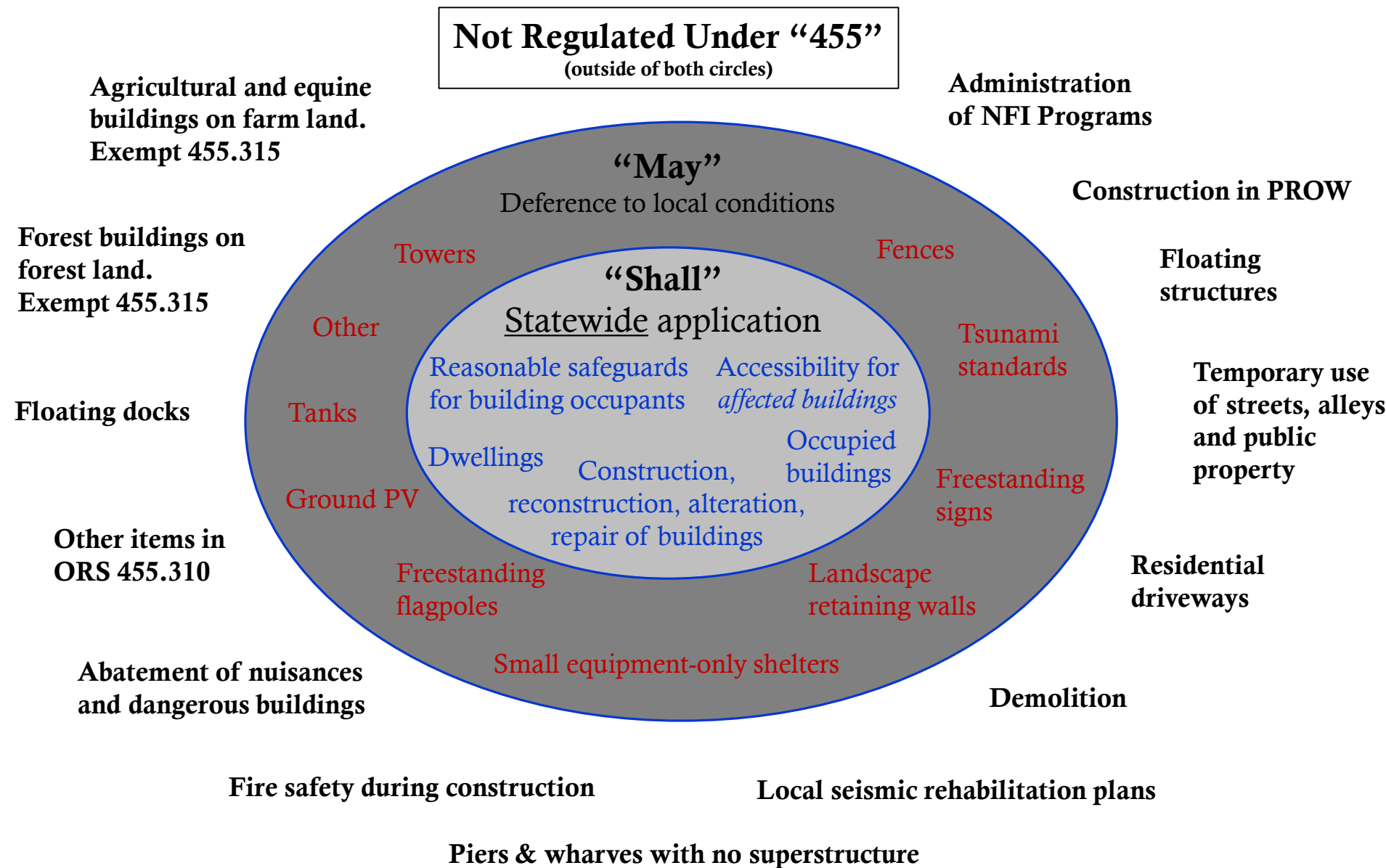
Both the “shall” and “may” categories fall under the division’s regulatory scheme.

While providing for local delineation in the “may” category, all work identified in either of the two ovals on the following slide must comply with the respective construction standards of the state building code.

Local policy makers review local conditions
(who better to make community-specific decisions?):
What’s reasonable in Harney County may not be in the Portland Metro area.

Only local officials, using local knowledge, can pragmatically apply the “reasonable test” of ORS 455.020 for unoccupied structures.

SUMMARY CONCEPTS



SUMMARY CONCEPTS

Delegable authority

Not all matters covered by the national model code fall under the division's delegable authority. This is commonly misunderstood.

A list of examples is provided within the scoping language.

Municipalities may have independent regulatory authority over the listed matters – but it would not come from the authority delegated by the division.

Since any associated regulation is derived independently from the division, the provisions of the state building code are not mandatorily applicable – but may be referenced via ordinance.

SUMMARY CONCEPTS

Local ordinances

Nothing in the state building code limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances, except where preempted.

The generalized model code references to “or other local ordinances” and similar have been deleted throughout both chapter drafts.

The state building code is unable to somehow deem *all* local ordinances as legally sufficient within Chapter 1.

Local ordinances should be adopted and implemented locally, with necessary guidance from local legal counsel.

SUMMARY CONCEPTS

Utility service disconnection

The division does not have delegable authority regarding the disconnection of fuel lines or utilities, even in an emergency.

Local municipalities may have independent local authority, **outside of the authority delegated by the division**, regarding the disconnection of fuel lines and utilities.

Regulated *appliances* governed by the state building code and covered under an active permit are subject to building official approval.

SUMMARY CONCEPTS

Stop work orders

The division's statutory authority regarding stop work orders is not delegable to a local municipality.

Local municipalities likely have independent local authority, **outside of the authority delegated by the division**, regarding stop work orders.

It is recommended to work closely with local legal counsel when determining independent local authority.

SUMMARY CONCEPTS

Right of entry

The division does not have delegable authority regarding access or right of entry. These model provisions were removed during the publishing of the 2019 OSSC prior to October 2019.

Occupied buildings that do not have a valid certificate of occupancy do not fall under the delegated authority from the division.

References within the state building code that provide access and investigative authority to building officials are rescinded and are not valid.

WALKTHROUGH

The “may” is identified as optional local adoption matters, and has been modified to clarify application in terms of associated structural/building permitting:

101.2.1 Optional local adoption. In addition to the work exempt from building permit in Section 105, the following matters are exempt from building permits unless specifically required by a municipality’s local ordinance. If a municipality adopts an ordinance to require a permit for any of the items below, the construction standards of this code shall be applicable:

Since the items listed under Section 101.2.1 fall under the “may” authority of statute, where a local municipality chooses to require permitting of any of the items, the standards of the state building code apply. The construction standards will be predictable for these matters, statewide.

WALKTHROUGH

Beyond those optional local adoption items, a list has been established in Section 101.2.2.1 to clarify matters which may be published in the national model code – or are otherwise commonly questioned – but fall outside of the division’s statutory and delegable authority:

Municipalities *may* have independent local authority to regulate these matters – but the division does not, and therefore cannot provide any associated guidance



101.2.2 Matters not available for local regulation under the statutory authority of the state building code. While the following matters may be included in the published national model code, they may not be regulated by the local *municipality* under the authority of the *state building code*. Any references to these matters in this code have been retained for the convenience of the reader.

101.2.2.1 Matters outside the statutory authority of the state building code. The following matters are outside the statutory authority of the *state building code* in Oregon. Local *municipalities* may not regulate these matters under the *state building code*. A *municipality* may have additional authority outside of the *state building code* to regulate these matters locally, where not preempted.

WALKTHROUGH

Matters **outside** the statutory and delegable authority of the state building code:

1. Pursuant to the regulation of dangerous buildings, a *municipality* may adopt seismic rehabilitation plans that provide for phased completion of repairs that are designed to provide improved life safety but that may be less than the standards for new buildings.
2. Abatement of nuisances and dangerous buildings.
3. Portable fire extinguishers.
4. Fire safety during construction.
5. Public utility towers and poles.
6. Building or structure encroachments into the public right-of-way.
7. Demolition.
8. Hydraulic flood control structures, including but not limited to dams and levees.
9. Mechanical equipment not specifically regulated in the *state building code*.
10. Temporary use of streets, alleys and public property.
11. Floating structures.
12. Detached *tents* and other *membrane structures* erected for periods of 180 days or less.
13. Administration and implementation of a National Flood Insurance Program (NFIP).
14. Transitional housing accommodations.
15. Employee qualifications, in accordance with Appendix A.
16. Fire districts, in accordance with Appendix D.
17. Flood-resistant construction, in accordance with Appendix G.
18. Grading, in accordance with Appendix J.
19. Construction located in the public right-of-way.

WALKTHROUGH

Any given local ordinance cannot be acknowledged directly by the state building code - inferring legal sufficiency.

New language is added to multiple sections to clarify that local ordinances are not restricted by the code. Legal sufficiency of such ordinances is exclusively determined by local legal counsel.

105.3.1 Action on application. The *building official* shall examine or cause to be examined applications for *permits* and amendments thereto within a reasonable time after filing. If the application or the *construction documents* do not conform to the requirements of pertinent laws, the *building official* shall reject such application in writing, stating the reasons therefor. If the *building official* is satisfied that the proposed work conforms to the requirements of this code and laws ~~and ordinances~~ applicable thereto, the *building official* shall issue a *permit* therefor as soon as practicable. Nothing in this code limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.

105.4 Validity of permit. The issuance or granting of a *permit* shall not be construed to be a *permit* for, or an approval of, any violation of any of the provisions of this code or of any other laws ~~or ordinances of the municipality~~. *Permits* presuming to give authority to violate or cancel the provisions of this code or other laws ~~or ordinances of the municipality~~ shall not be valid. The issuance of a *permit* based on *construction documents* and other data shall not prevent the *building official* from requiring the correction of errors in the *construction documents* and other data. The *building official* is authorized to prevent occupancy or use of a structure where in violation of this code or of any other laws ~~or ordinances of this municipality~~. Nothing in this code limits a local municipality's ability to require application of its own ordinances, or to enforce its own ordinances.

WALKTHROUGH

- Disconnection of utilities
- Stop work orders
- Aligned between OSSC & ORSC

SECTION 112 SERVICE UTILITIES

Not adopted by the State of Oregon Building Codes Division as part of the *state building code*.

Municipalities may have independent local authority regarding service utilities.

SECTION 115 STOP WORK ORDER

Not adopted by the State of Oregon Building Codes Division as part of the *state building code*. *Municipalities* may have independent local authority regarding stop work orders.

SECTION R111 SERVICE UTILITIES

Not adopted by the State of Oregon Building Codes Division as part of the *state building code*. *Municipalities* may have independent local authority regarding service utilities.

SECTION R114 STOP WORK ORDER

Not adopted by the State of Oregon Building Codes Division as part of the *state building code*. *Municipalities* may have independent local authority regarding stop orders.

WALKTHROUGH

- Modifications – intended to be a useful reference of discretionary authority often necessary for addressing site specific configurations.

104.9 Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the *owner* or the owner's authorized agent, provided that the *building official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not ~~lessen health, accessibility, life and fire safety or structural requirements~~ create an unsafe or dangerous condition regarding fire and life safety, and does not enforce requirements that are in addition to the state building code except where additional code requirements are specified by the terms of an alternate method approval. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

WALKTHROUGH

- Permit & inspection recording flexibility – offers paths for the local building official to engage customers and approve reasonable alternate recording methods for inspections and site progress.

105.7 Placement of permit. The building *permit* or copy shall be kept on the site of the work until ~~the~~ completion of the project. The *building official* may adopt local policies approving specific permit and inspection recording methods.

110.3 Required inspections. The *building official*, upon notification, shall make the inspections set forth in Sections 110.3.1 through 110.3.11. The *building official* may adopt local policies approving specific inspection recording methods.

CLOSING

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Reminder: Chapter 1 of the ORSC is incorporated into the 2021 iteration and is available on our Residential Program webpage. Related update training is available and includes Chapter 1.

As always, any inquiries regarding this presentation can be directed to BCD.PTSPtech@oregon.gov or directly to our technical team:

<https://www.oregon.gov/bcd/Pages/contact-us.aspx>

**THANK YOU
FOR
WATCHING**