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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 259
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

FILED
08/26/2020 12:33 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Clarifying maintenance re-certification time extensions and re-certification after lapse. Replaces COVID temporary rule.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2020 5:00 PM

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

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

This rule change is needed to codify the intent of the temporary rule that was filed effective March 31, 2020, through September 27, 2020. The temporary rule allowed the Department to approve time extensions that prevent immediate lapse of fire certifications with incomplete maintenance due to COVID-19 related impacts. This rule change replaces the temporary rule language with revisions to the existing rule that update and clarify the processes for a time extension to complete maintenance and re-certification after a lapse. This rule change also provides the Department the ability to exercise discretion regarding lapse of certifications by changing the "will lapse" references to "subject to lapse" or "may result in lapse."

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Fire Policy Committee (FPC), the Executive Committee and the Board on Public Safety Standards and Training (Board) meeting minutes are available on the Department of Public Safety Standards and Training website, www.oregon.gov/dpsst. The DPSST staff memos prepared for each entity are available by submitting a records request to DPSST.

FISCAL AND ECONOMIC IMPACT:

There are no fiscal impacts identified for these rule amendments. These changes update and clarify existing processes for a time extension to complete maintenance and re-certification after a lapse. These changes also provide the Department the ability to exercise discretion regarding lapse of certifications by changing the "will lapse" references to "subject to" or "may result in." The need to be able to exercise such discretion was originally addressed through a temporary rule adopted to deal with the impacts of COVID-19.

COST OF COMPLIANCE:

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

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

The Department estimates that there are five or fewer Oregon fire service agencies that are private safety agencies that are subject to this rule and potentially considered small businesses. There were no changes or costs for compliance with the proposed rule identified for small businesses with regard to reporting, recordkeeping, professional services, equipment, supplies, labor or increased administration activities.

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

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

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 259-009-0065

RULE SUMMARY: OAR 259-009-0065 outlines the requirements for maintaining fire service professional certifications. The proposed changes to this rule update and clarify the existing rule language outlining the time extension process and the re-certification process following a lapse. The proposed changes also provide the Department the ability to exercise discretion regarding lapse of certifications by changing the "will lapse" references to "subject to lapse" or "may result in lapse." The need to be able to exercise such discretion was originally addressed through a temporary rule adopted to deal with the impacts of COVID-19. These proposed rule changes are intended to replace the temporary rule that will expire on September 27, 2020.

CHANGES TO RULE:

259-009-0065

Maintenance ¶¶

- (1) Fire service professionals are required to successfully perform the essential functions for each certification they hold in order to maintain the certification.¶¶
- (2) The Fire Training Officer, or the Agency Head, is responsible for verifying completion of the maintenance requirements by submitting each fire service professional's maintenance re-certification form to the Department by December 31st of every even year.¶¶
- (3) Maintenance requirements for a certification may be demonstrated through:¶¶
 - (a) Service delivery, as defined in OAR 259-009-0005;¶¶
 - (b) Task performance, as defined in OAR 259-009-0005; or¶¶
 - (c) Completion of education or training hours related to the certification track, as defined by section (5) of this rule.¶¶
- (4) Any certification that is not verified by the agency ~~will~~ is subject to lapse after the certification expiration date.

Certification titles may have changed since their original issuance. If a fire service professional wants to maintain a certification, they must continue to complete maintenance for their certification, regardless of the title on the original certificate, in order to prevent the certification from lapsing.¶

(5) If a Fire Training Officer chooses to verify maintenance requirements through training or education, the fire service professional must satisfy the minimum number of hours identified for the certification track.¶

(a) The minimum number of hours may be satisfied through any combination of service delivery, task performance and education or training as determined by the Fire Training Officer.¶

(b) Satisfying the minimum hours for a certification track will satisfy the maintenance re-certification requirements for all of the certifications the fire service professional currently holds within the certification track.¶

(c) A fire service professional certified and performing duties in more than one certification track must complete the maintenance requirements for each certification track.¶

(6) Certification Tracks and Annual, Minimum Hour Requirements.¶

(a) Operations Track. The Operations certification track requires a minimum of 60 hours completed annually and includes the following certifications:¶

Fire Ground Leader;¶

Maritime Fire Service Basic Awareness;¶

Maritime Fire Service Boat Operator;¶

Maritime Fire Service Deck Hand;¶

Maritime Fire Service Fire Boat Operator;¶

Maritime Fire Service Rescue Boat Operator;¶

NFPA Aircraft Rescue and Fire-Fighting Apparatus;¶

NFPA Airport Fire Fighter;¶

NFPA Apparatus Equipped with a Tiller (Tiller);¶

NFPA Apparatus Equipped with an Aerial Device (Aerial);¶

NFPA Apparatus Equipped with Fire Pump (Pumper);¶

NFPA Confined Space Rescue;¶

NFPA Dive Rescue;¶

NFPA Fire Apparatus Driver/Operator (Driver);¶

NFPA Fire Fighter I;¶

NFPA Fire Fighter II;¶

NFPA Fire Officer I;¶

NFPA Fire Officer II;¶

NFPA Hazardous Materials Awareness;¶

NFPA Hazardous Materials Incident Commander;¶

NFPA Hazardous Materials Operations Mission-Specific;¶

NFPA Hazardous Materials Operations;¶

NFPA Hazardous Materials Technician;¶

NFPA Machinery Rescue;¶

NFPA Marine Fire Fighter I;¶

NFPA Marine Fire Fighter II;¶

NFPA Mobile Water Supply Apparatus;¶

NFPA Rope Rescue Operations Level;¶

NFPA Rope Rescue Technician Level;¶

NFPA Structural Collapse Rescue;¶

NFPA Surf Rescue;¶

NFPA Surface Water Rescue;¶

NFPA Swiftwater Rescue;¶

NFPA Tower Rescue;¶

NFPA Trench Rescue;¶
 NFPA Vehicle Rescue;¶
 NFPA Watercraft Rescue;¶
 NFPA Wildland Fire Apparatus;¶
 NWCG Crew Boss, Single Resource (CRWB);¶
 NWCG Division/Group Supervisor (DIVS);¶
 NWCG Engine Boss, Single Resource (ENGB);¶
 NWCG Felling Boss, Single Resource (FELB);¶
 NWCG Firefighter Type 1 (FFT1);¶
 NWCG Firefighter Type 2 (FFT2);¶
 NWCG Firing Boss, Single Resource (FIRB);¶
 NWCG Heavy Equipment Boss, Single Resource (HEQB);¶
 NWCG Strike Team Leader Engine (STEN);¶
 NWCG Task Force Leader (TFLD);¶
 US&R Medical Technician;¶
 US&R Rescue Technician;¶
 US&R Rigging Technician; and¶
 US&R Search Technician.¶

(b) Instructor Track. The Instructor certification track requires a minimum of four hours completed annually and includes the following certifications:¶

NFPA Fire and Emergency Services Instructor I;¶
 NFPA Fire and Emergency Services Instructor II;¶
 NFPA Fire and Emergency Services Instructor III;¶
 NFPA Live Fire Instructor; and¶
 NFPA Live Fire Instructor in Charge.¶

(c) Prevention/Public Education/Administration Track. The Prevention/Public Education/Administration certification track requires a minimum of 12 hours completed annually and includes the following certifications:¶

NFPA Fire and Life Safety Educator I;¶
 NFPA Fire and Life Safety Educator II;¶
 NFPA Fire and Life Safety Educator III;¶
 NFPA Fire Inspector I;¶
 NFPA Fire Inspector II;¶
 NFPA Fire Inspector III;¶
 NFPA Fire Investigator;¶
 NFPA Fire Officer III;¶
 NFPA Fire Officer IV;¶
 NFPA Public Information Officer;¶
 NFPA Youth Firesetter Intervention Specialist; and¶
 NFPA Youth Firesetter Program Manager.¶

(7) Failure to notify the Department that the fire service professional's maintenance requirements have been completed ~~will~~ may result in a warning notification letter being sent to the agency head and the Training Officer ~~and the~~ lapse of the fire service professional's certifications.¶

(a) ~~A three month extension will be automatically authorized if requested in writing.~~¶

(b) ~~Failure to complete maintenance requirements and submit the completed appropriate form after the warning notification letter and before the three month extension has expired, will result in the lapse of the f~~The Department may grant a time extension for completion of the maintenance requirements upon receipt of a written request from the Agency Head or the Training Officer. Fire service professional's certifications.¶

(c) ~~Subject to Departmen~~ will not [approval, re-certification following a lapse may be obtained upon the employing agency submitting the following:¶

~~(A) Use during an approved time extension.~~

~~(9) The fire service agency may request for re-certification and documentation explaining why the maintenance requirements were not completed or of a fire service professional's lapsed certified; and~~

~~(B) Verifications by verifying completion that of the maintenance requirements have been completed and a completed and submitting a certification reinstatement form.~~

Statutory/Other Authority: ORS 181A.410

Statutes/Other Implemented: ORS 181A.410