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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 837
DEPARTMENT OF THE STATE FIRE MARSHAL

FILED

04/04/2024 11:52 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Clarifying changes and updates to the Oregon Safety Assessment Program.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/22/2024 5:00 PM

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

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Filed By:
Sara Zavala
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/22/2024

TIME: 1:00 PM - 2:00 PM

OFFICER: Sara Zavala

IN-PERSON HEARING DETAILS

ADDRESS: Oregon State Fire Marshal Building, 3991 Fairview Industrial Dr. SE, Salem, OR 97302

SPECIAL INSTRUCTIONS:

If no attendees arrive within 15 minutes of the hearing start time, the hearing may be closed.

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 509957198

NEED FOR THE RULE(S)

The rule changes are to clarify the resource typing of the volunteer building safety evaluators, remove the requirement for OSFM to define complex and simple structures, and clean up a typo.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

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

The Department of the State Fire Marshal has not identified any racial equity impacts of these rule amendments.

FISCAL AND ECONOMIC IMPACT:

There is no expected fiscal or economic impact with these rule changes.

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).

The OSFM anticipates minimal economic effect on local government. Such minimal economic effects may include the purchasing of ATC-20 books and training materials. 2(a) None. (b) None. (c) OSFM will maintain a list of volunteers for use by local governments. There should be no additional administration costs.

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

The stakeholders representing various associations, such as OBOA, AIA, AEE, ASCE, PEO, SAEO/SEER, participated in the revision of the current rules through a TEAMS advisory committee meeting.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

837-140-0001, 837-140-0010, 837-140-0020, 837-140-0030, 837-140-0040

AMEND: 837-140-0001

RULE SUMMARY: Update language for purpose and scope

CHANGES TO RULE:

837-140-0001

Safety Assessment Program - Purpose and Scope

These rules establish and maintain a registry ~~of for the credentialing and qualification criteria to be registered as~~ and credentialed post-disaster safety evaluators per ORS 401.256. The Department of State Fire Marshal shall coordinate and oversee the implementation of the Oregon Safety Assessment Program (OrSAP) in accordance with ~~Federal Emergency Management Agency's assessment procedures and criteria described in the~~ Applied Technology Council (ATC) Procedures for Post-Earthquake Safety Evaluation of Buildings (ATC-20 - Standard), and Safety Evaluation of Buildings after Windstorms and Floods (ATC-45).

Statutory/Other Authority: ORS 401.358, HB 2206, ORS 401.256

Statutes/Other Implemented: ORS 401.358, HB 2206, ORS 401.256

AMEND: 837-140-0010

RULE SUMMARY: 837-140-0010(4) – Change number, updated language for consistency. Add single-family residential buildings and associated accessory structures up to three stories in height to the definition.

837-140-0010(5) - Change number, updated language for consistency

837-140-0010(6) - Change number, updated language for consistency; fixed typo

837-140-0010(7) - Change number, updated language for consistency

837-140-0010(8) - Change number, updated language for consistency

837-140-0010(9) - Change the number, updated language for consistency. Removing "Building Safety Evaluator" as it is different from a Local Program Coordinator.

CHANGES TO RULE:

837-140-0010

Definitions

(1) "Building" means any structure utilized or intended for supporting or sheltering any use or occupancy.¶

(2) "Building Safety Evaluator Type 4~~3~~" means a person registered to assist other types in post-disaster ~~damage~~structural safety and habitability assessment evaluations (Rapid or Detailed Evaluations).¶

(3) "Building Safety Evaluator Type 3~~2~~" means a person registered to do Type 4~~3~~ tasks PLUS: perform post-disaster ~~damage~~structural safety and habitability assessment evaluations (Rapid Evaluations) for single-family residential buildings and associated accessory structures up to three stories in height.¶

~~(4) "Building Safety Evaluator Type 2" means a person registered to do Type 3 tasks PLUS: perform post-disaster damage and habitability assessments (Rapid Evaluations) for, row houses, townhouses, and simple commercial structures up to one story in height.¶~~

~~(54) "Building Safety Evaluator Type 1" means a person registered to do Type 2 tasks PLUS: perform post-disaster damage~~structural safety and habitability assessment evaluations (Rapid Evaluations) on all simple commercial structures.¶

~~(65) "Building Safety Evaluator: Complex Architectural System" means a person additionally who is registered to do Type 1 tasks PLUS: perform post-disaster non-structural habitability assessment evaluations~~ (Rapid or Detailed Evaluations) on all structures including architecturally complex structures such as high rise, mixed use, hospitals, schools, shopping malls, hotels and convention centers, historic structures, and large business complexes.¶

~~(76) "Building Safety Evaluator: Complex Geological System" means a person additionally who is registered to do Type 2 tasks PLUS: perform complex soil, slope, and foundation related assessment evaluations~~ (Rapid or Detailed Evaluations) ~~items~~, such as liquefaction, slope stability, and settlement for all structures.¶

~~(87) "Building Safety Evaluator: Complex Structural System" means a person additionally who is registered to perform post-disaster damage assessment~~do Type 1 tasks PLUS: perform post-disaster building safety evaluations (Rapid or Detailed Evaluations) on all structures including difficult, complex, or significant structures.¶

~~(98) "Building Safety Evaluator, Local Program Coordinator (LPC)" means a Local Program Coordinator (LPC) who~~person who is from a local government agency such as a building department, emergency management department, or fire agency that will assess the extent and severity of the damage overall and determine the need for qualified volunteers to perform building safety assessments. Position filled or appointed by Building Officials for each jurisdiction per ORS 401.358evaluations.

Statutory/Other Authority: ORS 401.358, ORS 401.256

Statutes/Other Implemented: ORS 401.358

AMEND: 837-140-0020

RULE SUMMARY: 837-140-0020(1) – Making the change to require OSFM to give LPC a list of qualified volunteers upon request.

837-140-0020(3) – Add training option for coordinator training.

CHANGES TO RULE:

837-140-0020

Local Program Coordinator

(1) ~~OSFM~~The Department of the State Fire Marshal will provide the Local Program Coordinator (LPC) ~~access to the state's volunteer registry with a list of qualified volunteers upon request.~~¶

(2) The LPC will assess the extent and severity of the damage and determine the need for qualified volunteers to perform building safety evaluations.¶

(3) The LPC will be required to complete one of the following: OrSAP Building Safety Evaluator Training, CALifornia Office of Emergency Services (CalOES) Safety Assessment Program (SAP) Evaluator Training, or equivalent OrSAP approved post-disaster CalOES SAP Coordinator training, or completion and documentation of an OrSAP approved ATC-20 and ATC-45 course.~~Additional OrSAP coordinator training module and FEMA Incident Command System courses on disaster response may be required.~~

Statutory/Other Authority: ORS 401.358, ORS 401.256

Statutes/Other Implemented: ORS 401.358

AMEND: 837-140-0030

RULE SUMMARY: Update language for consistency; add Washington Safety Assessment training as an approved training course; remove mention of Oregon equivalent for Construction Inspector Division II; Remove bachelor's degree as counting toward experience; remove (9) as it is not a requirement.

CHANGES TO RULE:

837-140-0030

Post-Disaster Building Safety Evaluator Registration Requirements

- (1) All persons seeking registration as a post-disaster building safety evaluator must:
 - (a) Complete an OSFM application form; and
 - (b) Complete one of the following training courses to be fully certified: OrSAP Building Safety Evaluator Training, CALalOES Safety Assessment Program Evaluator Training, ~~or equivalent OrSAP approved post-disaster, or completion and documentation of an OrSAP approved~~ ATC-20.WA safe - Washington State Safety Assessment Facility Evaluators Training, or completion and documentation of an OrSAP approved ATC-20 Post Earthquake Safety Evaluation of Buildings; and
 - (c) Complete the Department of the State Fire Marshal's Oregon Safety Assessment Program training module.
- (2) To be registered as a Building Safety Evaluator Type 4~~3~~, an applicant must have the following ~~experience~~ education:
 - (a) Engineer in Training/Engineer Intern; or
 - (b) ~~Unregistered~~ Bachelor of Architecture
- (3) To be registered as a Building Safety Evaluator Type 3, an applicant must have any International Code Council (ICC) certification or Oregon equivalent, or a general contractor's construction license.
- (4) To be registered as a Building Safety Evaluator Type 2, an applicant must have one or more of the following current certifications:
 - (a) Residential Building Inspector - ICC B1 or Oregon CAS; or
 - (b) Residential Building Plans Examiner - ICC R3 or Oregon CAX; or
 - (c) Professional Engineer; or
 - (d) Certified Engineering Geologist
- (5) To be registered as a Building Safety Evaluator Type 1, an applicant must have one or more of the following current certifications ~~and experience~~:
 - (a) Commercial Building Inspector - ICC B2 or Oregon SIA; or
 - (b) Commercial Building Plans Examiner - ICC B3 or Oregon PEA; or
 - (c) Certified Building Official - ICC CBO or Oregon Building Official; or
 - (d) Construction Inspector Division II - American Construction Inspectors Association (ACIA) ~~or Oregon equivalent~~; or
 - (e) Professional Structural Engineer; or
 - (f) Professional Engineer with specialization in structures; or
 - (g) Registered Architect
- (6) To be registered as a Building Safety Evaluator: Complex Architectural System, an applicant must have one or more of the following current certifications and experience:
 - (a) Registered Architect; or
 - (b) Commercial Building Plans Examiner - ICC B3 or Oregon PEA; or
 - (c) Certified Building Official - ICC CBO or Oregon equivalent; and
 - (d) 10 years of experience in the architectural design of complex building types, field investigation, and construction observation; or
 - (e) 10 years of experience as a plans examiner for a major metropolitan jurisdiction (population greater than 100,000).
- (7) To be registered as a Building Safety Evaluator: Complex Geological System, an applicant must have one or more of the following current certifications and experience:
 - (a) Professional Geotechnical Engineer; or
 - (b) Registered Geologist; or
 - (c) Certified Engineering Geologist; and
 - (d) 5 years of experience in building foundation design or analysis, including evaluation of existing building, field investigation, or construction observation.
- (8) To be registered as a Building Safety Evaluator: Complex Structural System, an applicant must have one or more of the following current certifications and experience:
 - (a) Professional Structural Engineer; or

(b) Professional Engineer with specialization in structures, and 10 years of experience in building design or analysis, including evaluation of existing buildings, field investigation, plan review, and construction observation. Four years of experience may be a Bachelor's degree in civil or structural engineering or a Bachelor's degree in architecture.¶

(9) Evaluator definitions provided by the program are recommendations for local jurisdictions during deployment. The Building Official may adjust deployment of some evaluator types in a reasonable and safe manner as needed to address specific conditions. Definitions of simple and complex structures will be developed by OrSAP for additional clarity.

Statutory/Other Authority: ORS 401.358, ORS 401.256

Statutes/Other Implemented: ORS 401.358

AMEND: 837-140-0040

RULE SUMMARY: 837-140-0040 – Update language for consistency.

Add Statutory Authority: ORS 401.256

CHANGES TO RULE:

837-140-0040

Post-Earthquake ~~Damage Inspe~~Building Safety Evaluator Continuing Education Requirements

Post-disaster building safety evaluators must complete an approved OrSAP refresher training every five years.

Statutory/Other Authority: ORS 401.358, ORS 401.256

Statutes/Other Implemented: ORS 401.358