



Oregon

Tina Kotek, Governor

State Board of Towing
DMV HQ - 1905 Lana Ave, NE
Salem, OR 97314
Phone: (503) 871-5481
Email Address: info@towboard.oregon.gov
Web Site: www.oregon.gov/sbot

OREGON STATE BOARD OF TOWING Special Board Meeting Minutes October 25, 2023

Meeting Location:

Oregon DMV HQ
1905 Lana Avenue, Rm 122
Salem, OR 97314

Attending Board Member:

Chuck Riley, Chair
Trent Hanson, Vice Chair
Bruce Anderson, Tower
Kevin Baker, Tower
Chris Coughlin, Consumer Advocate
Lt. Jason Lindland, OSP
Ray McClellan, Tower
Jason Shaner, Tower

Board and DMV Staff:

Torey McCullough, Board Administrator

Guests and members of the public:

In person: Mike Wagner, Santiam Towing & Recovery

Attending Remotely: Taylor; Kyle; Tim Bennett of Oregon Dept. of Justice; Michael Iwai of Ontario Police Dept.; Dustin Ross of Oregon Dept. of Transportation; Tim Hein, Jarom Sweazey of Gresham Police Dept.; Clayton Simon; Bobby Call; four unidentified persons attending by phone.

Chair Riley called the meeting to order at 11:05 a.m. Roll was called. All Board Members attended the meeting.

Agenda

The Special Meeting Agenda was reviewed and approved by Board consensus.

Review Public Comments and Testimony from Hearing

The Board discussed the Proposed Administrative Rules and rules hearing.

Riley moved that the definition of “predatory towing” be removed from the proposed rules. Anderson seconded. *In favor: Coughlin, Lindland, McClellan, Shaner, Hanson, Riley.*

Towers Anderson and Baker did not vote in compliance with ORS 822.255 (4). Opposed: None. Motion passes.

Riley moved to adopt the Proposed Administrative Rules as amended. Lindland seconded. *In favor: Anderson, Baker, Coughlin, Lindland, Hanson, Riley. Towers McClellan and Shaner did not vote in compliance with ORS 822.255 (4). Opposed: None. Motion passes.*

Position 7 Candidate: Chief Michael Iwai

McCullough announced that an application for the vacant Board seat was submitted by Ontario Police Chief Michael Iwai.

Iwai was recruited to apply for the position by Lindland, who provided the Board with an introduction and background information. Iwai then spoke to the Board, providing more information related to his experience with Oregon State Police before retiring and becoming the Ontario Police Chief for two years, summarizing his experience with the towing industry, and the current challenges and experiences in an Oregon border town.

When asked, Iwai confirmed that he would be available to travel in person to Salem for hearings or other events requiring in-person attendance. McClellan shared comments from Chelsea Kemp, OTTA Executive Director, in support of Iwai becoming a member of the Board.

Anderson moved to recommend Michael Iwai for appointment to the vacant Position 7 board member position. McClellan seconded. *In favor: Coughlin, Lindland, McClellan, Shaner, Hanson, Riley. Towers Anderson and Baker did not vote in compliance with ORS 822.255 (4). Opposed: None. Motion passes.*

The recommendation of appointment of Iwai will be forwarded to the Governor’s Executive Appointment team. It is hopeful that the Governor will review and issue appointments by the middle to end of November.

Next Meeting:

The next Board meeting is scheduled for November 14, 2023 at 9:00 a.m.

In addition to the Board’s regular business, a pre-planning planning session will be held during the meeting to identify the Board’s next projects, goals, and objectives.

Adjourned:

Chair Riley adjourned the meeting at 11:25 a.m.

Documents Considered by the Board

- Proposed Administrative Rules

Minutes prepared by Torey McCullough

Minutes APPROVED by Board vote: November 14, 2023



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OREGON STATE BOARD OF TOWING PROPOSED ADMINISTRATIVE RULES HEARING

The State Board of Towing was created during the 2021 legislative session under SB300. The Board is adopting Administrative Rules in compliance with ORS 822.265 (1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules: (a) Necessary for the administration of the laws that the board is charged with administering. (b) To implement [ORS 98.853 \(Conditions allowing towing\)](#) to [98.862 \(Exceptions to requirements of ORS 98.856\)](#).

Join on your computer, mobile app or room device:

Microsoft Teams meeting

Join on your computer, mobile app or room device

Join Remotely from the Web:

<https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Meeting ID: 294 387 589 392

Passcode: Bx9ZQU

Or call in (audio only)

Dial +1 971-277-1965

Phone Conference ID: 903 893 425#

AGENDA ITEM	PRESENTER	TIME
1. Call Hearing to Order	McCullough	10:00
2. Welcome & Introductions	McCullough	
3. Testimony and Public Comments - In-Person/Remote Attendance	All	10:05
Please:		
<ul style="list-style-type: none"> State your name, your company name (as appropriate), and spell your last name for the public record. Provide the Rule Number on which you are commenting on. Limit your statements to 2 minutes. Comments and testimony during the hearing is limited to the attached Proposed Administrative Rules. 		
<i>An open, public comment period to discuss general Board business may follow after Completion of Public Comments and Testimony.</i>		

Special Meeting Agenda

Special Meeting of the Board to discuss the comments and testimony presented at the Proposed Administrative Rules Hearing.

AGENDA ITEM	PRESENTER	TIME
1. Call Meeting to Order	Chair	11:00
2. Welcome & Introductions <i>(Board Member, Staff, Guests and the Public)</i>	All	11:05
3. Approve Agenda	Board	
<i>Board Vote:</i> ____ Anderson ____ Baker ____ Coughlin ____ Lindland ____ Shaner ____ McClellan ____ Hanson ____ Riley		
4. Review Public Comments and Testimony from Hearing	Board	11:10
<i>Board Vote: Proposed Rules</i>		
<input type="checkbox"/> <i>Adopt the Proposed Administrative Rules as Amended OR</i> <input type="checkbox"/> <i>Adopt the Proposed Administrative Rules as Amended, excepting rules held by the Board for further review and discussion.</i>		
<i>Board Vote:</i> ____ Anderson ____ Baker ____ Coughlin ____ Lindland ____ McClellan ____ Shaner ____ Hanson ____ Riley		
5. Additional Board Business	Board	
a. Position 7 Application		
<input type="checkbox"/> <i>Recommendation of Candidate Chief Michael Iwai for Appointment.</i>		
<i>Board Vote:</i> ____ Anderson ____ Baker ____ Coughlin ____ Lindland ____ McClellan ____ Shaner ____ Hanson ____ Riley		
b. Next Board Meeting		
6. Public Comments (Time Dependent)		
7. Adjourn Board Meeting	Chair	
<i>Board Vote:</i> ____ Anderson ____ Baker ____ Coughlin ____ Lindland ____ Shaner ____ McClellan ____ Hanson ____ Riley		

State Board of Towing – OAR Chapter 750

Authority:

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

(a) Necessary for the administration of the laws that the board is charged with administering.

(b) To implement ORS 98.853 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

Edits to the Boards Proposed Rules

- Language and grammar edited for clarity, consistency, and to remove redundancy.
- “Shall” replaced with “will” and some rules removed as recommended by DOJ.
- Rules edited to reflect wording in statute, including the word “statute” replaced with the word “law” to reflect the wording in the Board’s statute.

Division 1 – Model Rules of Procedure

No.	Title	Rule
OAR 750-001-0001	Uniform and Model Rules of Procedure.	Pursuant to the provisions of ORS 183.341, the The State Board of Towing adopts the Attorney General’s Uniform and Model Rules of Procedure under the Administrative Procedures Act ORS 183.341 These rules shall will be controlling except as otherwise required by statute law or rule.
OAR 750-001-0010	Notice of Proposed Rules.	(1) Prior to the adoption, amendment, or repeal of an administrative rule under OAR Chapter 750, the State Board of Towing shall 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 pursuant to 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 Depts in Oregon- (G) Other organizations, agencies or publications in the towing industry 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 annually 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 that 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, provided that the person provides a mailing address or email address to which the notice may be sent.

OAR 750-001-0030	Contested Case Hearings.	The State Board of Towing adopts the Attorney General's Model Rules of Procedure for contested cases under ORS 183.413 through 183.502 as applicable and relevant to the Board. These rules will be controlling except as otherwise required by law or rule, except to the extent the Model Rules conflict with or are modified by the Board's administrative rules under OAR Chapter 750.
OAR 750-001-0040	Authorization for Agency Representative.	The State Board of Towing adopts the Attorney General's Model Rules of Procedure to authorize the appearance of its staff as the Board's representative at contested hearings pursuant to ORS 183.452.; (1) Subject to the approval of the Attorney General, an officer or employee of the Board is authorized to appear on behalf of the Board in Administrative Hearings, as designated by the Board. (2) The Board representative may not make legal argument on behalf of the Board. (a) "Legal Argument" includes arguments on: (A) The jurisdiction of the agency to hear contested cases. (B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and (C) The application of court precedent to the facts of a particular contested case proceeding. (b) "Legal Argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual argument or arguments on: (A) The application of the statutes or rules to the facts in the contested case; (B) Comparison of prior actions of the agency in handling similar situations; (C) The literal meaning if the statutes or rules directly applicable to the issues in the contested case; (D) The admissibility of evidence; and (E) The correctness of procedures being followed in the contested case hearing.
OAR 750-001-0040	Civil Penalty Procedures.	The State Board of Towing adopts the Attorney General's Model Rules of Procedure for Civil Penalty and related procedures and processes under ORS 183.745. <u>These rules will be controlling except as otherwise required by law or rule, except to the extent the Model Rules conflict with or are modified by the Board's administrative rules under OAR Chapter 750.</u>

Division 10 – General Administrative and Operational Rules

No.	Title	Rule
OAR 750-010-0001	Definitions.	As used in OAR Chapter 750: (1) "Administrator" means the Board Administrative Officer <u>appointed under ORS 822.260.</u> (2) "Board", "SBOT", or "Tow Board" , <u>or "Towing Board"</u> 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) "Conflict of interest" means a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity. (5) <u>(4)</u> "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services. (6) "Initial tow" means services provided by a tow operator including, but not limited to, collisions, incidents, disableds, and impound requests, resulting from an original call, on a particular vehicle, received by the Towing Business or Tow Operator. (5) <u>"Industry" means the collective tow operators, tow businesses, and other entities working in the tow and recovery professions.</u> (6) <u>"Law" means a written statute passed by the Oregon Legislature.</u>

		<p>(7) "Non Preference Towing" means the rotational list of towing businesses established by Oregon State Police under ORS 181A.350.</p> <p>(8) <u>"OAR" means an Oregon Administrative Rule adopted by the Board and filed with the Oregon Secretary of State.</u></p> <p>(9) "ODOT" means Oregon Dept. of Transportation.</p> <p>(8)(10) <u>"ORS" mean Oregon Revised Statute, written laws passed by the Oregon Legislature.</u></p> <p>(9)(11) "OSP" means Oregon State Police.</p> <p>(10)(12) "Predatory Towing" means illegal or unethical towing practices including, but not limited to, charging exorbitant fees, refusing the owner access to personal items in the vehicle during business hours, removing vehicles without a contract or a direct dispatch, and falsification of documents or records.</p> <p>(11) "Professional relationship" means the relationship established when a towing business or tow operator contracts with a client, verbally or in writing, to provide any service associated with the towing industry.</p> <p>(12) "Professional role" means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain client safety and trust in the professional-client relationship.</p> <p>(13) "Respondent" means the person <u>or entity</u> to whom a formal enforcement action is issued.</p> <p>(14) "Secondary tow" means towing services from a tow business or tow operator's storage facility or place of business to another location designated by the owner/agent of a vehicle.</p> <p>(15)(14) "Special Committee" or "Subcommittee" means a standing, special, ad hoc, or <u>other committee comprised of no more than three Board Members sub-committee</u> created to <u>carry on assist with</u> the work of the Board <u>as assigned</u>.</p> <p>(16)(15) "Tower" or "Tow Operator" means an individual who operates a tow <u>truck or recovery vehicle</u> for compensation, which may include, <u>but is not limited to</u>, the impounding, transporting, or storage of unauthorized vehicles, or the disposal of abandoned vehicles.</p> <p>(17)(16) "Towing Business" means an individual, partnership, corporation, or other business entity that owns or operates a tow <u>truck or recovery vehicle</u> for commercial purposes.</p> <p>(18)(17) "Tow Certificate" or "Towing Business Certificate" means a towing <u>or recovery vehicle</u> business certificate issued <u>by DMV</u> under ORS 822.205.</p> <p>(19)(18) "Tow Truck" means a motor vehicle <u>operating operated</u> for compensation that is 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 <u>tow operator, or tow truck owner or operator's business, profits or benefits in any way, or is compensated from towing a vehicle, for operation of the vehicle in towing or recovery</u>, the <u>tow truck vehicle</u> must be considered a tow truck under OAR Chapter 750.</p> <p>(20)(19) <u>"Unprofessional or dishonorable conduct" means a behavior, practice or condition that is contrary to the ethical and professional standards adopted by the Board.</u></p>
OAR 750-010-0010	Fees.	<p>(1) The State Board of Towing shall <u>will</u> impose a fee of \$100 on any person <u>or entity</u> holding or applying for a <u>towing tow or recovery vehicle</u> business certificate in the State of Oregon, pursuant to ORS 822.285 (3). The fee:</p> <p>(a) Shall-Will be collected during the application process for issuance or renewal of a Tow Business Certificate <u>tow business certificate</u> as described in ORS 822.200 to 822.215 and OAR 735-154-0010.</p> <p>(b) Fees paid to the State Board of Towing under this section does not preclude the certification requirements under ORS 822.205.</p>

		<p>(2) Fees collected under OAR 750-010-0010 shall<u>will</u> be deposited into the State Board of Towing Account established under ORS 822.270.</p> <p>(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.</p> <p>(4) Fees paid to the State Board of Towing are nonrefundable.</p>
OAR 750-010-0030	Fiscal.	The State Board of Towing fiscal year shall <u>will</u> be a twelve-month period beginning July 1 of one year and ending June 30 of the following year.
OAR 750-010-0040	Contracting and Procurement.	<p>The State Board of Towing may contract for consultant personal services when:</p> <p>(a) The specialized skills, knowledge, and resources are not available within the Board or its staff;</p> <p>(b) The work cannot be done in a reasonable time with the Board's own work force;</p> <p>(c) An independent and impartial evaluation of a situation is required by a consultant with recognized professional expertise and stature in a field; or</p> <p>(d) It will be less expensive<u>Cost and expenses incurred by the Board will be reduced, to under a</u> contract for the work.</p>
OAR 750-010-0050	Board Meetings.	<p>(1) The State Board of Towing shall<u>will</u> hold regular public Board Meetings at least once every fiscal quarter.</p> <p>(2) Regularly scheduled Public Board Meetings shall<u>will</u> be noticed to the public a minimum of ten (10) calendar days before the scheduled date of the meeting by:</p> <p>(a) Posting on the Board website; and</p> <p>(b) Posting on the Public Calendar of the Oregon Transparency website; and</p> <p>(c) By distributing a copy of the Notice by electronic mail to persons on the Board's mailing list.</p> <p>(3) The Board shall<u>will</u> hold emergency or special meetings at the request of the Chair, Vice Chair, 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).</p> <p>(4) In case of an emergency, a meeting may be held pursuant to ORS 192.640.</p>
OAR 750-010-0060	Annual Business Work Session.	The State Board of Towing will hold an annual business meeting and work session every fiscal year.
OAR 750-010-0080	Board Member Assignments.	<p>(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 during a public meeting.</p> <p>(2) No more than three (3) active Board Members shall<u>will</u> be assigned to any one committee.</p> <p>(3) The scope 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.</p>

OAR 750-010-0090	Committees and Subcommittees.	<p>(1) Special Committees <u>and Subcommittees</u> 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.</p> <p>(2) A Special Committee <u>created by the Board</u> may exist as long as there remains concern <u>or interest by the Board</u> for the assigned area of interest, <u>until the conclusion of the Special Committee-committee Assignmentassignment</u>, or until disbanded by vote of the Board during public session of a regularly scheduled board meeting.</p> <p>(3) Special Committees <u>shall will</u> consist of three (3) or more members, including one (1) Board member <u>or Board staff</u> assigned as the Board's representative and liaison, except as provided under required by ORS 183.333 (8).</p>
OAR 750-010-0100	Board Staff.	<p>(1) The State Board of Towing shall will appoint an Administrative Officer, approved by the Governor of the State of Oregon, to serve as the Administrator of the Board.</p> <p>(2) The Administrator shall be is responsible for the general administration and implementation of the Board's affairs in accordance with the general policies established by the Oregon Statutes laws, Oregon Administrative Rules, and the Board's policies and direction.</p> <p>(3) A formal review of performance <u>performance review</u> of the Administrator <u>will be conducted</u>, at the Board's annual meeting and work session.</p> <p>(4) The Administrator shall will have signature authority for notices of proposed actions, final orders, other disciplinary actions, subpoenas, and other signature authority as defined and delegated by the Board.</p>
OAR 750-010-0110	Public Records Requests.	<p>(1) Anyone may <u>submit a written</u> request <u>for</u> disclosure of a public record for which the State Board of Towing is the custodian by submitting a written request in person, via mail, email, or fax.</p> <p>(2) A request for public records must include:</p> <p>(a) The name, mailing address, email address, and telephone number, if any, of the requestor;</p> <p>(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</p> <p>(c) The signature of the requestor and date of request.</p> <p>(3) <u>The written request may be delivered in person or by USPS mail or other delivery services, and by email.</u></p> <p>(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.</p> <p>(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.</p> <p>(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.</p>
OAR 750-010-0120	Severability.	<p>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 shall will not affect the validity of any remaining portion of the rules of the Board under OAR Chapter 750.</p>

Division 40 - Violations

The State Board of Towing may impose a civil penalty or take other disciplinary action for violations of any of the following statutes, administrative rules, or orders:

OAR 750-040-0001	Violations of Statutes Oregon Laws.	The State Board of Towing may impose a civil penalty or take other disciplinary action <u>under ORS 822.265</u> : for violation of ORS 822.265 -ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605 <u>and other law assigned to the Board for administration</u> , hereinafter collectively referred to as "statutes."
OAR 750-040-0020	Separate Violations.	Each violation of a State Board of Towing statute law assigned to the Board for <u>administration</u> , an administrative rule adopted by the Board, or an Order issued by the Board is a separate violation subject to separate Board disciplinary actions, including civil penalties assessed by the Board.
OAR 750-040-0040	Enforcement.	(1) The State Board of Towing may issue a Notice of Proposed Disciplinary Action for violation(s) of the Board's statute laws <u>administered</u> , or administrative rules adopted, by the Board. (2) The Board Administrator or the Administrator's designee shall <u>will</u> 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.

Division 60 – Consumer Protection and Complaints

OAR 750-060-0001	Consumer Protection.	(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 <u>towing</u> industry; (b) Establishing professional industry standards; (c) Investigating complaints and concerns of the public regarding the towing industry; and (d) Enforcing the laws and <u>administrative</u> 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 <u>commercial</u> towing and recovery for compensation is <u>operations is</u> essential. (b) Encouragement of a competitive and <u>qualified-trained</u> 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.
OAR 750-060-0010	Consumer Protection Committee.	(1) The State Board of Towing may appoint a Consumer Protection Committee comprised of three Board Members, but no more than two <u>tow</u> 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 member who has a conflict of interest <u>with respect to any a</u> complaint shall <u>will</u> declare the conflict and shall <u>will</u> not participate in any Committee activity concerning the complaint.

OAR 750-060-0020	Complaints.	<p>(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.</p> <p>(2) Complaints made to the Board shall be in writing, and must include a detailed explanation of:</p> <p>(a) The approximate date, time, and location of the adverse event or subject of the complaint.</p> <p>(b) A description of the conduct or events that occurred.</p> <p>(c) A description of damage or loss suffered by Complainant.</p> <p>(d) Copies, if available, of any pictures, receipts, correspondence, or other documentation supporting the allegations of the Complaint.</p> <p>(3) Complainants shall will not be considered a party to a Board compliance case or disciplinary action.</p> <p>(4) Complaints will be initially reviewed by the Board Administrator to:</p> <p>(a) Assess Board jurisdiction and authority to address the issue(s) raised; and</p> <p>(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.</p> <p>(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.</p> <p>(6) Every complaint and initial response will be presented during Executive Session of the next regularly scheduled meeting of the Board.</p> <p>(7) Any Board member or Board staff member who has a conflict of interest with respect to any a complaint shall will declare the conflict and shall will not participate in the investigation, disposition, or any other activity concerning the complaint.</p>
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Division 70
Investigations and Investigation Reports

OAR 750-070-0001	Purpose of Investigations.	<p>The purpose of an investigation conducted by the State Board of Towing is to:</p> <p>(1) Investigate the allegations of a complaint; or</p> <p>(2) Investigate information indicating potential violations of Oregon's laws and <u>administrative</u> rules regulating the towing industry; or</p> <p>(3) Verify compliance with Oregon's laws and <u>administrative</u> rules regulating the towing industry or with any Order issued by this Board or another Oregon jurisdiction; and</p> <p>(4) Obtain sufficient, credible, and verifiable evidence of violation of the laws or rules administered by the State Board of Towing to justify issuance sanctions or such other action as the circumstances may warrant.</p>
OAR 750-070-0010	State Board of Towing Investigations.	<p>(1) The State Board of Towing may investigate a <u>submitted Complaint-complaint</u> when:</p> <p>(a) The complaint subject appears to be within the Board's jurisdiction and authority, and</p>

		<p>(b) There is sufficient evidence to justify proceeding to investigate to 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.</p> <p>(2) The Board Administrator oversees the investigation process on behalf of the State Board of Towing and serves as the primary point of contact.</p> <p>(3) To the extent permitted by law, the Board will cooperate with other regulatory boards and other agencies when conducting an investigation.</p> <p>(4) Nothing in this section is intended to limit the Board's authority to initiate and conduct investigations on the Board's own motion, supported by any basis deemed adequate by the Board.</p>
OAR 750-070-0020	Investigation of Violations and Complaints.	<p>(1) The State Board of Towing may delegate its investigative powers and authority for purposes of initiating and carrying out investigations.</p> <p>(2) In the conduct of investigations, the Board may:</p> <p>(a) Take evidence.</p> <p>(b) Take the depositions of witnesses.</p> <p>(c) Compel the appearance of witnesses before the Board.</p> <p>(d) Compel the production of documents or other information deemed necessary to carry out the investigation.</p> <p>(3) In exercising its authority under <u>ORS 822.275 and</u> 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.</p> <p>(4) If any a person or entity fails to comply with a subpoena issued under this section 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 shall will be followed to compel compliance.</p>
OAR 750-070-0030	Cooperation in Board Investigations.	<p>(1) Every Tow Business Certificate holder, its <u>Every Tow Operator, Tow Business, and their</u> representatives and employees, regardless of tow business certificate status, having information regarding a possible violation of the <u>administrative rules or statutes-laws</u> 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.</p> <p>(2) Failure by a Tow Business Certificate holder or its <u>a Tow Operator, a Tow Business, their</u> representative or employee to cooperate with a Board investigation is grounds for disciplinary action.</p> <p>(3) Cooperation in a Board investigation may includes:</p> <p>(a) Submitting client or business records, with or without a signed release by the client, during a Board investigation of relevant to the allegations presented in the Complaint investigation, excepting personal information protected by law; and</p> <p>(b) Providing a complete case file at the request of the Board, excepting personal information protected by law; and</p> <p>(c)(b) <u>Being available for a personal interview in support of a Board investigation during reasonable hours; and</u></p> <p>(c) Responding and directly answering questions asked during an interview or investigation.</p>

		<p>(d) (d) Verbally providing information reasonably known at the time of the interview or investigation. Responding to questions presented by the Board or the Board's investigator related to the investigation; and</p> <p>(e) Allowing access, during business hours, of the low-business premises and low equipment for inspection if required to conduct a Board investigation into the allegations of a complaint.</p> <p>(4) Respondents, <u>or their representatives</u>, named in a <u>Complaint-complaint</u> may be personally interviewed or <u>may</u> be given an opportunity to provide a written response to the <u>Complaint-complaint</u> as part of a Board investigation.</p> <p>(a) Written responses, records, or 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 <u>personally served</u>, mailed by USPS regular, or <u>sent</u> by electronic mail, unless an extension is authorized by the Board Administrator.</p> <p>(b) <u>Written R</u>esponses, 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.</p>
OAR 750-070-0040	Investigation Reports.	<p>(1) The purpose of an investigation report is to provide the Board with enough information to determine whether one or more violations of <u>one or more statutes-laws and or administrative</u> rules occurred and to take action when appropriate.</p> <p>(2) An investigation report will be completed and submitted to the Board within 120 days after the Board receives the complaint.</p> <p>(a) The Board may extend the time for submitting the report by up to 30 days for just cause after case review and Board vote.</p> <p>(b) The Board may grant more than one extension of time.</p> <p>(3) The iInvestigation Rreport, exhibits, and other <u>case</u> information related to the case will be reviewed by the Board during Executive Session at a scheduled board meeting.</p> <p>(a) The Board <u>shall will</u> evaluate all evidence obtained during the investigation, including the original complaint, and any documents or <u>comments-statements</u> received from the Complainant, Respondent, law enforcement, or other parties.</p> <p>(b) If the evidence is insufficient to justify further <u>proceedings Board action</u>, the Complainant and Respondent <u>shall will</u> be so notified in writing.</p> <p>(c) If the evidence is sufficient to justify further <u>proceedings action</u>, the Board will <u>consider-determine and take</u> appropriate action during public session of a regular or special meeting.</p> <p>(4) Investigatory information obtained during a Board investigation or contained in a written report to the Board is confidential and <u>shall will</u> be exempt from public disclosure unless otherwise required by law.</p> <p>(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 <u>commission-board, or agency, or other entity</u> may be accepted by the Board as a Board Investigation Report.</p>
OAR 750-070-0050	Board Actions After Investigations.	<p>Upon completion of an investigation the Board may do any of the following:</p> <p>(1) Close the investigation and take no action.</p> <p>(2) Issue a letter of concern, reprimand, or instruction.</p> <p>(3) Issue a Notice of Proposed Action proposing disciplinary action.</p> <p>(4) Enter into a stipulated agreement with the Respondent to impose discipline.</p>

		(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.
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Division 80

Progressive Discipline, Discipline and Sanctions, Schedule of Civil Penalties, Collection of Civil Penalties

OAR 750-080-0001	Progressive Discipline.	<p>(1) The goal of progressive discipline is to correct unprofessional behavior and conduct, deter a person or entity from repeating the conduct, and educate the person or entity to improve compliance with applicable statute<u>laws</u> and rules.</p> <p>(2) Progressive discipline includes increasingly severe steps or measures against a person, persons, or entity when there is a failure to correct inappropriate behavior or conduct, or when subsequent instances of inappropriate behavior and conduct occur.</p> <p>(3) The State Board of Towing will evaluate relevant and mitigating factors to determine whether to issue a non-disciplinary educational letter of advice or letter of concern, or to issue discipline through reprimand, suspension, revocation, or civil penalties.</p> <p>(4) Any Board disciplinary action taken by the Board will be in accordance with <u>comply with</u> ORS chapter 183.</p>
OAR 750-080-0020	Mitigating Circumstances.	<p>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:</p> <p>(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.</p> <p>(2) The nature of the violation.</p> <p>(3) The effect of the violation on public safety and welfare.</p> <p>(4) Whether the conduct <u>or action(s)</u> was inadvertent or intentional.</p> <p>(5) The person's experience and education.</p> <p>(6) The degree to which the action subject to sanction violates professional ethics and standards of the profession.</p> <p>(7) The level of cooperation and engagement in the Board's investigation.</p> <p>(8) The economic and financial condition of the person <u>or entity</u> subject to sanction.</p> <p>(9) Any mitigating or aggravating factors that the Board may choose to consider.</p>
OAR 750-080-0030	Disciplinary Actions and Sanctions.	<p>(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.</p> <p>(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.</p>

		<p>(3) The Board may assess against a person or entity a civil penalty under ORS 822.995 according to the Civil Penalty Schedule <u>Schedule of Civil Penalties</u> under OAR 750-080-0040.</p> <p>(4) A Respondent will <u>Respondents</u> have the right to a contested case hearing to contest the findings of the Board and or proposed disciplinary action, provided that the written request for a hearing is received by the Board within 20 days of the date the Notice of Proposed Disciplinary Action <u>was issued</u>, except as required under ORS 183.</p> <p>(5) The Board may assess reasonable costs, <u>fees, and expenses</u> of a disciplinary proceeding against the Responsible Party <u>Respondent(s)</u>. Costs may include, but are not limited to: including, but not limited to,</p> <p>(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.</p>
OAR 750-080-0040	<u>Civil Penalty Schedule</u> . Schedule of Civil Penalties.	<p>(1) (4) <u>The State Board of Towing adopts the following Schedule of Civil Penalties:</u></p> <p>(a) 1st offense: \$0 - \$500 (2) (b) 2nd offense: \$500 - \$1000 (3) (c) 3rd offense: \$1000 - \$2500 (4) (d) Additional offenses: Additional civil penalties, in an amount up to \$25,000 per violation, as determined by the Board.</p> <p>(5) (2) The State Board of Towing may assess a civil penalty in an amount greater than the Civil Penalty Schedule <u>Schedule of Civil Penalty</u> 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.</p> <p>(6) (3) In determining an appropriate <u>civil</u> penalty amount, the Board and may consider the following:</p> <p>(a) The severity of the violation or its impact on the <u>safety or wellbeing of the</u> public; (b) The number of similar or related violations; (c) Whether a violation was willful or intentional; (d) The prior history of <u>all</u> civil penalties and sanctions imposed by against the dismantler or principals of the dismantler business by the Board or other regulatory agencies; (e) Other circumstances determined by the Board to be applicable to the <u>particular</u> violation(s).</p>
OAR 750-080-0050	Effective Date of Disciplinary Actions.	<p>(1) The <u>State Board of Towing</u> 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.</p> <p>(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.</p>

		<p>(3) A Civil Penalty and reasonable cost imposed by the State Board of Towing becomes due and payable 10 days after the Notice imposing the civil penalty becomes a Final Order.</p> <p>(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.</p> <p>(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 specifically defined<u>specified</u> in the written agreement.</p> <p>(6) A Stipulated Agreement and Final Order, Voluntary Surrender, or other agreement between the Board and a Respondent settling a disciplinary case under <u>agreed</u> terms and conditions requires Board ratification and approval.</p>
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