



September 16, 2008

**Electrical program assumption
clarification**

Opportunity for public input:

Those who would like to provide public testimony may attend a public hearing on September 16, 2008 at 2:00 p.m. The hearing will be located at the Building Codes Division, Conference Room A. Written comments may also be submitted to the contact below. The last day to submit written comments is 5:00 p.m. September 19, 2008.

Purpose of the rule:

These proposed rules clarify the process and procedures under which a local government may assume from the state the responsibility to administer and enforce an electrical program. This will make the administrative rules consistent for either general program assumptions or electrical program assumptions.

These rules would be effective October 1, 2008.

Citation:

Amend: OAR 918-308-0010, 918-308-0020, and 918-308-0040

History:

General program assumption requirements are established in ORS Chapter 455 and administrative rules in OAR Chapter 918, Division 020. These requirements cover administrative operations and all inspection programs except for electrical. There are specific requirements for electrical program assumptions in ORS Chapter 479 and rules in OAR Chapter 918, Division 308.

In January 2008 the division amended the general assumption rules, specifically for a municipality assuming responsibility for a building inspection program from the state. Changing the assumption rules for local governments assuming programs from the division helps eliminate duplicative information and makes the process simpler. When a local government makes a request to assume an inspection program from the division, the division already has knowledge of how the program operates. Amending these general assumption rules inadvertently caused a discrepancy between the general assumption rules and electrical program assumption rules.

A temporary rule is currently in place implementing these proposed rules. The Electrical and Elevator Board, at its July 2008 meeting, approved the proposed rules.

Contact:

If you have questions or need further information, please contact Hearing Officer Aeron Teverbaugh at 503-373-1354, or Aeron.Teverbaugh@state.or.us .



Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services, Building Codes Division	918
Agency and Division	Administrative Rules Chapter Number
Shauna M. Parker	PO Box 14470, Salem, OR 97309
Rules Coordinator	Address
	(503) 373-7438
	Telephone

RULE CAPTION

Clarifies how a local government may assume responsibility for administering an electrical program from division.

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

September 16, 2008	2:00 p.m.	1535 Edgewater Street NW, Salem, OR 97304	Aeron Teverbaugh
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

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

ADOPT:

AMEND: OAR 918-308

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 479.730

Other Auth.:

Stats. Implemented: ORS 479.855 & 455.148

RULE SUMMARY

These proposed rules clarify the process and procedures under which a local government may assume responsibility to administer and enforce the electrical program from the state. Because of the first-hand knowledge that the division possesses in the operation of its programs, there is a different assumption process for a local government when assuming the electrical program in division administered regions, as opposed to assumptions from other local governments. This rulemaking clarifies the different process.

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

Friday, September 19, 2008 by 5:00 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Mark Long	
Signature	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services, Building Codes Division

918

Agency and Division

Administrative Rules Chapter Number

Clarifies how a local government may assume responsibility for administering an electrical program from division.

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

In the Matter of: Amending OAR 918-308

Statutory Authority: ORS 479.730

Other Authority:

Stats. Implemented: ORS 479.855 & 455.148

Need for the Rule(s):

The division amended the process for a municipality assuming responsibility for the building inspection program from the division. Amending the general assumption rules inadvertently caused a discrepancy between the electrical program delegation and the general building program assumption. These rules will address that discrepancy and bring the requirements for assuming all aspects of the building inspection program from the division into harmony.

Documents Relied Upon, and where they are available: Minutes from the Electrical and Elevator Board meeting of July 24, 2008, and draft rules are available from the division's rules coordinator located at 1535 Edgewater St. NW, Salem, Oregon, 97304 and are available on the division's web site: www.bcd.oregon.gov.

Fiscal and Economic Impact: The department has determined these proposed rule changes will not have a fiscal or economic impact on state agencies, units of local government, members of the public or small businesses.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No state agencies, members of the public, or small businesses will be impacted by these rules. Only local governments applying for delegation of the electrical program administered by the division will be affected by these rules and should experience a cost reduction. Building Codes Division may be impacted, but the division is unable to quantify the impact at this time.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: These proposed rule changes will not have a fiscal or economic impact on small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

These proposed rules impose no reporting, recordkeeping, administrative or other requirements on small businesses.

c. Equipment, supplies, labor and increased administration required for compliance:

These proposed rules impose no equipment, supplies, labor, administrative or other requirements on small businesses.

How were small businesses involved in the development of this rule? Small businesses are represented on the Electrical and Elevator Board that reviewed and approved these rules at the July 24, 2008 board meeting..

Administrative Rule Advisory Committee consulted?: No

If not, why?: The Electrical and Elevator Board reviewed the rules. The board represents a wide segment of the electrical industry.

Signature	Mark Long	Date
	Printed name	

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Electrical Program Delegation Draft Rule

918-308-0010

Standards for Delegation

Administration and enforcement of the electrical program shall only be delegated under ORS 479.855 to municipalities meeting the following minimum performance standards:

(1) The municipality shall be ready, willing and able to fully operate the electrical program on the effective date of delegation, July 1, **except when a municipality is assuming the program from the division.**

(2) The municipality shall create and maintain minimum services which are at least reasonably the same level of electrical administrative, enforcement and inspection services presently provided to the area. Minimum administrative, enforcement and inspection services include the “Ongoing Requirements” in the Electrical Delegation Rules.

(3) Operation of the program shall be financially feasible without unduly increasing short-term and long-term cost of electrical inspection services to the public, both in the areas delegated and, if applicable, the remaining program to the surrounding area.

(4) The municipality shall demonstrate its ability to carry out the proposed electrical program.

(5) The requirements in the Electrical Delegation Rules are in addition to rules adopted by the Department in OAR 918-020-0070 through 918-020-0220 for municipalities that apply to undertake inspection programs.

Stat. Auth.: ORS 479.855~~730~~

Stats. Implemented: ORS 479.855

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96;
Renumbered from 918-300-0100

918-308-0020

Check List for Application for Delegation of Electrical Program

Except when a municipality requests responsibility for an electrical program administered by the division, A municipality seeking delegation or renewal of delegation of the electrical program shall:

(1) Comply with ORS 455.148 and 455.150; and

(2) If the municipality is applying for delegation for the first time, it shall file an application for delegation of the electrical program under the Electrical Delegation Rules. The application shall:

(a) Be filed by the governing body of the municipality by October 1 prior to the year for which delegation is sought;

(b) Be based on a resolution of the municipality formally authorizing the application, and representing if the application is granted, the municipality and all persons under it will comply with and be bound by the Electrical Delegation Rules;

(c) Include a proposed ordinance for administration and enforcement of the electrical program;

(d) Include an operating plan showing it meets the minimum standards for delegation in the Electrical Delegation Rules; and

(e) Note any differences in service or inspections from present services and inspections to be provided on delegation.

(3) If the municipality is requesting its first renewal, it shall file relevant amendments or updates to its initial application and note this is its first renewal application.

(4) A municipality requesting delegation of the electrical program administered by the division must meet the requirements of ORS 455.148 (7) and 11(c). Notwithstanding the timelines in ORS 455.148 (11)(c), a municipality assuming the program from the division must submit an assumption plan prior to administering the program.

Stat. Auth.: ORS 479.855~~730~~

Stats. Implemented: ORS 479.855

Hist.: BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-300-0130; BCD 28-2002(Temp), f. & cert. ef. 10-1-02 thru 3-29-03; BCD 36-2002, f. 12-31-02, cert. ef. 1-1-03

918-308-0040

Check List for Operating Plan and Documentation

An “operating plan” is the municipality’s strategy for carrying out the goals and objectives for its electrical inspection program commencing on July 1 of the year for which delegation is

sought. "Strategy" means what, how and when it will be done. The operating plan **for a municipality assuming the electrical program from another municipality** shall include:

(1) Strategies and written agreements, where relevant, for handling the transition from the losing jurisdiction to applicant including arrangements made for:

(a) Open permits and inspections ongoing as of July 1;

(b) Enforcement actions pending on July 1;

(c) Being fully operational on July 1 including staffing and training of permit and other personnel;

(d) Informing contractors and others of the changeover of inspecting jurisdictions, jurisdictional boundaries and requirements covering permits and procedures, inspection procedures, temporary permit procedures, plan review requirements and fees; and

(e) Employees presently providing the electrical inspection services in the area covered by the application and how applicant will deal with ORS 236.605:

(A) If the matter was resolved by the applicant and losing jurisdiction, or with the jurisdiction and the inspector, provide a copy of the agreement and a statement by applicant's municipal council that all employee rights under ORS 236.605 were preserved;

(B) Any assertion that ORS 236.605 is not applicable to the transaction must be from applicant's municipal council.

(2) Strategies for electrical operations including:

(a) Inspectors and inspections:

(A) When will certified electrical inspectors be hired, how will applicant be operational by July 1 and how will inspectors be used to carry out the program;

(B) Where more than one inspection office is involved, how will inspectors be deployed;

(C) If the electrical program is offered jointly with another municipality or parts of another municipality, the agreement between municipalities, which ordinances will apply in the different areas, what offices and staff assignments will be made and what boundaries are involved; and

(D) If electrical services will be provided by a contractor, the operating plan to be followed including inspection, coverage of prolonged absences and administration and an agreement by the contractor to be bound by the Electrical Delegation Rules.

(b) Code interpretations. How will code interpretations be provided and when will electrical inspectors be available to provide them. This should cover each office;

(c) Conflict resolution. How will conflicts in electrical code interpretations between inspectors or inspectors and the public be resolved at the local level, what rights of appeal will the public be advised of, and how will conflicts of interest involving staff be resolved;

(d) Plan review. Will plan review be required and if so which installations require plan review;

(e) Turn-around time. What will be the response time to inspection requests, what correction notices will be used, when will reinspection be required, and how and where will permit and inspection records be kept. If a contractor is used, will contractor records be made available at the municipality's offices in the event of a review of electrical operations. Attach related forms to be used;

(f) Enforcement. How and when will license checks and permit and code compliance be monitored, who will be involved and how will violations be enforced. If the electrical inspector is not full time with the municipality, who will do license checks and other enforcement during the inspector's absence;

(g) Use of labels. What labels will be used and what internal procedures will be followed for minor installation labels and bulk labels if the municipality uses bulk labels;

(h) Temporary permits. What temporary permit procedures are adopted by the municipality to deal with OAR 918, division 309 or for days during a regular workweek the municipality is not open for permit sales;

(i) Forms and records. What electrical permit application, appeal and other forms will be used and where will formal permit and inspection records be kept. Attach forms;

(j) Accounting. How will electrical revenues, direct and indirect including interest earned, be segregated from other revenues and accounted for; how will payments from and charges to that account be accounted for; and if there are electrical surpluses, will these be carried over for the electrical program between fiscal years. How will overhead, including all administrative costs, be allocated;

(k) Projections. What is applicant's projection for electrical income and expenses for the fiscal period for which the application is filed and what assumptions, such as growth or increased inspections, are relied on. What are the projections for following periods if losses are projected for the first period. If losses are projected, how these will be funded. If a contractor is used, show projections for the municipality and the contractor.

(1) Contingency plan. A plan for “back-up” inspection services.

Stat. Auth.: ORS 479.~~855~~**730**

Stats. Implemented: ORS 479.855

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96;

Renumbered from 918-300-0150

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