

**RESPONSE TO COMMENTS**  
**RE: OAR 333-265**  
**Emergency Medical Technicians**

**RESPONSE TO TESTIMONY**

Rule Number	Issue	Discussion	Department Response
<p><b>Statement of Need and Fiscal Impact: A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking</b></p>	<p>In the Matter of:  <b>Amending of Oregon Administrative Rule 333-265 related to the training and certification of first responders and emergency medical technicians.</b></p> <p>Statutory Authority: <b>ORS 682.017</b></p> <p>Other Authority:</p> <p>Statutes Implemented: <b>ORS 682.017 through ORS 682.991</b></p> <p>Need for the Rule(s):  <b>The Department of Human Services, Public Health Division, Emergency Medical Technicians and Trauma Systems program wishes is streamlining existing rule in order to:</b></p> <ul style="list-style-type: none"> <li>• <b>Improve the programs ability to monitor the quality of care provided by pre-hospital emergency care providers to Oregonians and persons visiting the</b></li> </ul>	<p>The commentator stated that under the heading <i>Need for the Rules</i> it states that these changes in re-certification hours will improve the programs ability to monitor the quality of care provided by prehospital emergency care providers to Oregonians and persons visiting the state of Oregon. It also states that the changes in re-certification hours will improve the accountability of prehospital care providers. In actuality all that is really proposed is increasing the number of required classes and it is questionable whether it will do anything to either improve the program’s ability to monitor quality of care or improve accountability but ongoing competencies required by the medical director will get us closer to these goals.</p> <p>A second commentator questioned the fiscal impact of the</p>	<p>The proposed regulations include revisions made to the EMT-Intermediate level and establish certification for First Responders. The proposed regulations significantly increase the continuing education hours for EMT-Intermediates and Paramedics. They also provide flexibility to the medical director to determine which areas a specific individual or a service needs to focus continuing education. The proposed regulations make clarifications in how practical skills testing evaluation is conducted. These changes will improve the Department’s ability to monitor the training of EMTs and the provision of EMS in Oregon.</p> <p>The continuing education requirements for Paramedics will double. The continuing education</p>

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	<p style="text-align: center;"><b>state of Oregon; and</b></p> <ul style="list-style-type: none"> <li>• <b>Improve accountability of prehospital care providers.</b></li> </ul> <p>Fiscal and Economic Impact: Individuals wishing to certify or recertify as a first responder or an emergency medical technician will be impacted by these rule changes. In addition, all transporting agencies, non-transporting agencies, and training facilities will be affected by changes to continuing requirements. Based on historical utilization of existing fees, conservative assumptions on reciprocity and certification fees.</p> <p>A fiscal impact will occur to providers that are contractually obligated to provide continuing education to their staff to meet state recertification requirements. The program is unable to provide an estimate of this fiscal impact due to incomplete information about these costs. The department has identified the following factors that may impact the cost to provider agencies:</p> <ul style="list-style-type: none"> <li>• Continuing education for first</li> </ul>	<p>proposed rules and pointed to legislation directing state agencies to avoid placing unnecessary burdens on small businesses. She opined that “education for paramedics alone will be doubled” and that there are at least 47 licensed ambulances in the state that are private and or/volunteer that this impacts.</p> <p>This commentator stated that the proposed rule changes as stated in the Need for the Rule does not accomplish what is stated. The proposed rule changes primarily address continuing education requirements for emergency medical technicians, which neither improve the program’s ability to monitor pre-hospital care quality, or improve pre-hospital care accountability. This commentator believes that the statement of need, as provided, is vague, undocumented, and does not include references to empirical studies or other means of documenting a specific system</p>	<p>requirement for Basics is reduced by one hour a year. The Department acknowledges that the proposed rules will impact EMS agencies throughout the state.</p> <p>Please see previous note.</p> <p>The Department did attempt to</p>

	<p>responders will be reduced.</p> <ul style="list-style-type: none"> <li>• Continuing education for EMT-Basic will be reduced by one hour.</li> <li>• Continuing education for EMT-Intermediate and EMT-Paramedic will increase substantially.</li> </ul> <p>Earlier this year the program withdrew the requirement for competency testing which will offset some of the increased training hours required for EMT-Intermediate and EMT-Paramedic.</p> <p>The proposed implementation date is early enough in the biennium such that most of the fees realized in the 2007-2009 biennium will be similar in the 2009-11 biennium.</p>	<p>wide need. Oregon EMS &amp; Trauma Systems has not demonstrated how this administrative rule change accomplishes its statement of need; improved monitoring of quality of care and improve pre-hospital care provider accountability.</p> <p>Several of the commentator's addressed the Department's description of the fiscal impact and the need for the rules as set out in the Statement of Need and Fiscal Impact. One individual opinion the program "made no real effort to determine" what the impact would be to the providers who are contractually obligated to provide the continuing education to their staff to meet certification requirements.</p>	<p>estimate the cost of implementing the changes in regulatory requirements. The Department does not have a reliable estimate of the number of First Responders and so it is difficult determine total cost to communities at \$15.00 per certificate holder. The cost of increased continuing education for paramedics and Intermediates is also difficult to estimate. While the number of hours Oregon will require will double for these categories, they still remain only half of the requirement for the National Registry of EMTS, so anyone who maintains national registry will not see an increase. Estimating the cost to the other services and the individuals requires an estimate of the hourly pay rate for those individuals who will receive training while on duty and pay rates vary widely. Then there is the cost of providing the training which can be a fee for attending training or for some EMS agencies paying an instructor. Lastly many certificate holders indicated that they already take</p>
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			<p>more than the required number so doubling the current costs would overstate the experience of many certificate holders. The Department does acknowledge that there will be a significant increase in cost resulting from the significant increase in continuing education requirement for intermediates and paramedics.</p>
<p><b>333-265-0000</b> <b>Definitions</b></p>	<p>Definitions-333-265-0000(1-34) (6) Definition of <i>Continuing Education</i> means education required as a condition of certification under ORS 682 to maintain the skills necessary for the provision of competent prehospital care.</p> <p>(32) Definition of <i>Teaching Institute</i> means a two-year community college or four-year degree granting college or a licensed vocational school that is accredited by the Office of Professional Technical Education, Office of Community College Services/Oregon Department of Education.</p>	<p>Two of the commentator's stated the definition of <i>continuing education</i> means to maintain skills necessary for provision of competent prehospital care. Both commentator's think it would be better if the definition were changed to "to maintain skills necessary to provide competent prehospital care."</p> <p>Commentator stated the definition of <i>Teaching Institute</i> should be revised because the definition does not list nonpublic degree-granting institutions and that Oregon has at least one such accredited school that trains EMS/EMTs. He recommended</p>	<p>The proposed language does not appear to be an improve clarity ob the definition.</p> <p>The definition is identical to the existing definition in the current regulations, does not limit teaching institutes to public institutions and is consistent with the statutory language requires the Office of Professional Technical Education, Office of Community College</p>

	<p>(34)Definition of <i>Volunteer</i> means a person who is not compensated for their time to staff an ambulance or rescue service, but who may receive reimbursement for personal expenses incurred.</p>	<p>that the definition should simply refer to accredited providers.</p> <p>Commentator states that many volunteer fire services in Oregon offer what is called “LOSAP” (Length of Service Awards Program). This program is approved by the IRS and allows an agency to place a certain amount of money into a tax deferred program which grows with the volunteer’s activity and longevity.</p> <p>Does having a LOSAP program cause an agency to lose the “Volunteer status” as per the definition of volunteer?</p>	<p>Services/Oregon Department of Education to accredit these institutions.</p> <p>In the Department’s opinion, a length of service award does not constitute payment for service. An individual receiving such recognition can still be a volunteer.</p>
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<p><b>333-265-0016 Paramedic Field Internships (5)</b></p>	<p>For purposes of this section, “EMS call” means a prehospital emergency medical services response requiring patient care at the advanced life support level and “ambulance call” means an advanced life support prehospital emergency medical services response which includes dispatch, scene response, patient care while riding in the patient compartment of an ambulance, and participation in the transfer of the patient to hospital staff, unless patient care is terminated prior to transfer to hospital staff.</p>	<p>Commentator stated that the proposed requirement to limit the clinical experience on non-transport EMS providers will cause major problems for his agency.</p>	<p>The proposed rule clarifies that to complete a paramedic field internship; an individual must complete EMS calls which include transport of the patient. While the Department recognizes that many paramedics work for non-transporting agencies, understanding the issues involved in transport is considered an essential component of paramedic training. It is additionally noted that the Department has no regulatory oversight of non-transporting agencies. This suggests that the legislature also recognizes a significant difference between transporting and non-transporting agencies.</p>

<p><b>333-265-0025 Application Process to Obtain an EMT or First Responder Certificate</b></p>	<p>333-265-0025 (3)(d) Be a high school graduate or equivalent, and for EMT-Paramedic certification, have an associate’s degree in applied science or higher as approved by the State Board of Education and offered by Oregon’s two year community colleges or four year colleges;</p> <p>(f)Consent to a criminal background check through the</p>	<p>Commentator stated that the changes at the paramedic level broadening the degree requirements will be really helpful as an employer to be able to attract good, qualified paramedics who will bring a breath of experience to this field and be able to better serve the public.</p> <p>This commentator was supportive for the Paramedic certification that any associate degree from an accredited institution be accepted.</p> <p>Commentator stated one of challenging issues for his agency is the continued requirement for an Associate Degree to be eligible for EMT-Paramedic certification has led to a recognizable shortage of paramedics in the Portland metro area.</p> <p>Commentator stated that the proposed rule changes will</p>	<p>The purpose of adopting this change is to encourage qualified personnel to seek paramedic certification in Oregon.</p> <p>The proposed rule will change the requirement from a specific Associate Degree to any associate’s degree in applied Science or higher as approved by the State Board of Education. The requirement for a paramedic to have an associates degree remains and is believed to contribute to improved patient care outcomes.</p> <p>The Department believes that conducting background checks is</p>
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	<p>Law Enforcement Data System (LEDS), including a nationwide criminal record check by fingerprint identification under the authority of ORS 181.534 and 181.537 if the results of the LEDS check show that the applicant is a “multi-state offender”.</p> <p>(h) Submit fee as set out in OAR-265-0030.</p>	<p>adversely impact the OSP because of the recertification fee but of most concern was the requirement for a background check and fingerprinting which would cost them \$49.00 for each. This individual stated that the electronic background check for new sworn employees is redundant, costly and unnecessary.</p>	<p>important. We have worked with the Oregon State Police on a system so that we are not duplicating background checks already performed by their agency.</p>

<p><b>333-265-0030 Fees for the Certification and Recertification of an EMT or First Responder</b></p>	<p>333-265-0030 (8) An EMS agency or rescue service which utilizes volunteers for the provision of a majority of its services may request that the Division waive the EMT or First Responder recertification fee for its volunteers by applying for a waiver on a form prescribed by the Division that includes ...;</p>	<p>Several commentators' spoke regarding their opposition to the EMS and Trauma Systems Program regulating First Responders and charging certification fee. One commentator opined that requiring certification for all First Responders will increase cost to volunteer agencies as most First Responders are volunteers and that this cost will ultimately be borne by the volunteers themselves. He suggested that proposed 333-265-0030(8) which allows an EMS agency or rescue service to request a waiver of the EMT or First Responder recertification fees for its volunteers be modified because most volunteer agencies do not have scheduled shifts and that this is "for agencies that do not necessarily have EMTs or paramedics on board and is strictly first responders."</p>	<p>The Department has the statutory responsibility to certify first responders. These regulations will enable the Department to accomplish this responsibility. Funds to do this work are to come from collected fees.</p> <p>The Department agrees with the commenter concerning the definition of volunteer and changed proposed rule accordingly. The proposed rules now reads:  (8) An EMS agency or rescue service which utilizes volunteers for the provision of a majority of its service.</p>
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<b>333-265-0100(1)(e) Expiration, Recertification and Reinstatement of EMT Certification</b>	Complete the continuing education requirements in OAR 333-265-0110;	Commentator states these proposed rule changes are not consistent with recertification requirements of other medical disciplines. These changes will decrease educational opportunities for emergency medical technicians in Oregon and foster a generation of lesser-qualified leaders in EMS. The commentator is not opposed to higher education for emergency medical technicians.	There is objective data correlating continuing education with performance in a test environment. Department believes that continuing education can contribute to improved quality of care. The continuing education requirements are less than those required by the National Registry of EMTs and are consistent with others states for EMTs.
<b>333-265-0110 Certified First Responder and EMT Continuing Education Requirements for Recertification</b>	333-265-110 In order to retain certification as a First Responder a First Responder is required to complete 12 hours of continuing education. An EMT-Basic is required to complete 24 continuing education hours. An EMT-Intermediate needs to complete at least 36 continuing education hours, a Paramedic is required to complete at least 48 hours of continuing education all the above continuing education requirements are specified in Appendix 1, which is incorporated by this rule.	Commentator agreed that the increase in the continuing education requirements for recertification of First Responders and all levels of EMTs is a very good idea. The commentator stated that the added continuing education hours are much needed and extremely helpful for those who have to assure that EMTs are providing good care on the streets.	The Department believes that continuing education can contribute to improved quality of care and better patient outcomes.

<p><b>333-265-0110 Certified First Responder and EMT Continuing Education Requirements for Recertification</b></p>	<p>333-265-0110(3) In order to retain certification an EMT-Intermediate is required to: (a) Complete a course with published standards and guidelines for cardiopulmonary resuscitation and emergency cardiac care where the EMT has demonstrated knowledge and skills in the performance of subcutaneous (SQ) injections, automated external defibrillator (AED) operation, one and two-person rescuer cardiopulmonary resuscitation (adult, child and infant) and relief of foreign body airway obstruction; and (b) Obtain at least 36 hours of continuing education as specified in Appendix 1, incorporated by reference.</p> <p>333-265-110(4) In order to retain certification an EMT-Paramedic is required to: (a) Complete all requirements of the National Registry of EMT-Paramedics re-registration; or (b) Obtain at least 48 hours of continuing education as specified in Appendix 1.</p>	<p>This commentator stated that for EMT-Intermediate they would like to see more verification and additional hours required. She recommended a minimum of 48 hours instead of 36 hours in two years for continuing education requirements. Commentator stated “There are skills that are done by Intermediates in the state where paramedics are not available that are not done often, but if they are not practiced on a regular basis and those skills verified, then we can not really assure the people are going to be competent in doing those skills”.</p> <p>This commentator stated that one of the issues of most concern to this agency is the changes to the standards for EMT Intermediate recertification served only to reduce the level of service available; Commentator stated that according to house bill 3238, which states “whereas when adopting rules to protect the health</p>	<p>The Department believes that continuing education can contribute to improved quality of care and better patient outcomes. Identifying a required number of hours for the EMT-Intermediate involved balancing the need for continued training for a EMT level that has a very large scope of practice with the recognition that this level is intended to expand access to care in rural and frontier areas of the state. The 36 hour requirement is a compromise between maintaining quality and access to care.</p>
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		<p>the educational requirements” to be detrimental.</p> <p>The commentator stated that the proposal to provide just 25% credit for the instructor appears to be out of balance. The instructors must not only have competency in the course content but also must be competent in adult learning methods.</p> <p>The recommendation is to increase the instructor’s credit to at least the same amount that is given to the students or you may want to increase the credit to 125% in order to provide an incentive for paramedics to obtain and maintain instructor status, especially because most instructors put in at least double the class hours for preparation.</p> <p>Another commentator testified that the cost of continuing education alone would exceed \$1,500 for each paramedic. He stated that “The proposed rules make the certification and recertification of</p>	<p>While the Department would like to encourage more individuals to become instructors, the Department believes that allowing 25% of the continuing education requirement to be met by teaching is reasonable. Even instructors should obtain information from other sources to address any misunderstandings they may have acquired.</p> <p>The Department believes that the existing regulations which require EMT-Basics to have more continuing education than EMT-Paramedics are not reasonable. In establishing the continuing education</p>
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		<p>the EMT-I and EMT-B overly burdensome on the individuals and agencies”. This commentator also stressed that limiting on-line video training to 25% will have a tremendous impact on how EMS training is delivered in many organizations; that there is not identified capacity to provide necessary courses; and that the proposed rule represents an unfunded mandate which is prohibited by the Oregon Constitution.</p> <p>Several commentators’ stated that “limiting the number of video hours that an organization their size uses is extremely detrimental to us.” It was suggested that the proposed rule allow up to 50% of the hours of continuing education credits be obtained by the methods listed in the rule. One person estimated that without this change his agency would have to add another full-time person. His agency uses a closed circuit television studio to provide training.</p>	<p>standards, the Department reviewed standards of the National Registry of EMTs (NREMT) and other states. The proposed continuing education is one half of the NREMT requirement.</p> <p>The Department did increase the percentage of training permitted through video or recorded programs to 50% to increase accessibility to continuing education as suggested by several commenters.</p>

		<p>This commentator stated that the proposed rules are intended to improve the level of training; there is not documented link between the amount of training proposed, or limits placed on the training method to patient outcomes.</p> <p>Commentator stated that the mandatory EMT-I Bridge class has no science to back it up and lacks the Statement of Need. Individual continues to state that at the EMS and BME meetings, we often hear how Supervising Physicians do not monitor their EMTs quality of care or even know if their EMT's have the skills to practice. Yet, by the EMS Office allowing EMT-I Bridge students to "pass" the course without an actual scored written or practical exam to identify if these students learned anything, thus allowing potentially incompetent individuals to treat Oregon's sick and injured with more dangerous medications.</p>	<p>There is evidence that both initial and continuing education program can enhance knowledge and skill levels. The commenter is correct; the evidence linking it to patient outcomes is difficult, as there are few studies which have documented this relationship.</p> <p>The EMT-Intermediate scope of practice was established by the Oregon Medical Board in an effort to make advanced life support services available in rural areas. The Bridge class was designed to train existing Intermediates to operate at the new and increased scope of practice. There are no other states using exactly this scope and model.</p> <p>The individuals eligible to take the EMT-Intermediate bridge course have already taken and passed the EMT-Intermediate course. Due to this the testing procedures for the EMT-I Bridge have been minimal.</p>
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<p><b>333-265-180-EMT Intermediate Bridge Course(1)(2)(3)</b></p>	<p>(1)In January 2006, the Oregon Medical Board adopted a new, increased scope of practice for EMT-Intermediates. In order for EMT-Intermediates certified prior to this change to deliver patient care consistent with the new scope of practice, the Division developed an EMT-Intermediate bridge course, 2006, incorporated by reference.</p> <p>(2)An EMT-Intermediate certified prior to January 1, 2006, shall complete the EMT-Intermediate bridge course by June 30, 2008</p> <p>(3)An EMT-Intermediate who does not wish to complete the Bridge course may voluntarily revert to an EMT Basic at any time prior to June 30, 2008, as specified in OAR 333-265-0090.</p>	<p>Numerous commentator's' spoke regarding the implementation dates for these proposed rule changes. They felt that the date is inappropriate and inconsistent with the recertification period and the Department does not consider effects on emergency medical technicians and organizations providing pre-hospital care.</p>	<p>The Department agrees and has changed the dates that the new continuing education standards will become effective. The new standards are July 1, 2008 for First Responders and July 1, 2009 for EMTs.</p>
<p><b>333-265-0190 Effective date of rules</b></p>	<p>Except as otherwise provided in these rules, the amendments to OAR, Division 265 effective on January 1, 2008, apply to any pending application, request for approval, open investigations, or disciplinary action in which no</p>		

	final action has been taken.		
<b>333-265 Emergency Medical Technicians Rules-General</b>		<p>Commentator stated that the proposed rule revisions resulted from an extensive process in which OSAA and its members worked with Public Health Division, EMS and stakeholders. This individual continued to state that “We are pleased that the effort has culminated in proposed rules which will make progress toward improving access and delivery of excellent pre-hospital medical care and transportation in Oregon. Commentator also stated there are no sections of the rule that they object to.</p> <p>Commentator opined that significant issues surrounding EMT education, certification and reciprocity will require vigorous attention to determine whether the proposed rules will be effective in meeting the needs of ambulance service providers and characterized the proposed rules, a</p>	<p>The Department attempted to find middle ground in establishing the standards. Many individuals and organizations in the EMS community have expressed support for the proposed rules, others remain skeptical.</p> <p>The Department agrees that the impact of these rule changes must be monitored to determine whether quality and access to care are within acceptable limits.</p>

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		<p>step to change.</p> <p>OFMMA supports the proposed rules as they contain “many changes which will continue to improve the caliber of First Responders and EMT’s throughout the state, which ultimately ensures the best delivery of emergency medical services possible to the citizens we all serve”.</p> <p>Commentator stated that the proposed rule changes will not substantially accomplish the needs listed in the proposal, that there is inadequate consideration of fiscal impact for the interested parties. Commentator continued to state that the proposed rule changes do not address fiscal impact, and that the fiscal impact is unknown.</p>	<p>The Department addressed the scope of the change in a comment on page 1 and has responded to the concern about the fiscal impact on pages 3 and 4 of this document.</p>