

A-Engrossed
House Bill 2303

Ordered by the House May 12
Including House Amendments dated May 12

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires person contracting with known purchaser for construction of residential housing to supply purchaser with list of features that may improve accessibility of housing for persons with disabilities. Applies to contracts entered into on or after July 1, 2006.]

Authorizes Director of Department of Consumer and Business Services, after consultation with certain boards, to adjust mechanical specialty code or structural specialty code to ensure compatibility with Low-Rise Residential Dwelling Code.

Modifies provisions of Electrical Safety Law relating to electrical product installations and sales.

A BILL FOR AN ACT

1
2 Relating to construction; amending ORS 455.610, 479.530, 479.540, 479.610, 479.730, 479.835 and
3 479.853.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 455.610 is amended to read:

6 455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and
7 amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including
8 structural design provisions, related to the construction of residential dwellings three stories or less
9 above grade. The code provisions for plumbing and electrical requirements must be compatible with
10 other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical
11 Board and the State Plumbing Board shall review, respectively, amendments to the electrical, me-
12 chanical or plumbing provisions of the code.

13 (2) Changes or amendments to the code adopted under subsection (1) of this section may be made
14 when:

15 (a) Required by geographic or climatic conditions unique to Oregon;

16 (b) Necessary to be compatible with other statutory provisions;

17 (c) Changes to the national codes are adopted in Oregon; or

18 (d) Necessary to authorize the use of building materials and techniques that are consistent with
19 nationally recognized standards and building practices.

20 **(3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any**
21 **time following appropriate consultation with the Mechanical Board or Building Codes Struc-**
22 **tures Board, amend the mechanical specialty code or structural specialty code to ensure**
23 **compatibility with the Low-Rise Residential Dwelling Code.**

24 [(3)] (4) The water conservation provisions for toilets, urinals, shower heads and interior faucets

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS
2 447.020 to meet the requirements of ORS 447.145.

3 [(4)] (5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by
4 ORS 455.030 and 455.110.

5 [(5)] (6) The director, by rule, shall establish uniform standards for a municipality to allow an
6 alternate method of construction to the requirements for one and two family dwellings built to the
7 Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire
8 apparatus means of approach to a property or water supply serving a property does not meet ap-
9 plicable fire code or state building code requirements. The alternate method of construction, which
10 may include but is not limited to the installation of automatic fire sprinkler systems, must be ap-
11 proved in conjunction with the approval of an application under ORS 197.522.

12 [(6)] (7) For lots of record existing before July 2, 2001, or property that receives any approval
13 for partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality al-
14 lowing an alternate method of construction to the requirements for one and two family dwellings
15 built to the Low-Rise Residential Dwelling Code may apply the uniform standards established by the
16 director pursuant to subsection [(5)] (6) of this section. For property that receives all approvals for
17 partition, subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality
18 allowing an alternate method of construction to the requirements for one and two family dwellings
19 built to the Low-Rise Residential Dwelling Code must apply the uniform standards established by the
20 director pursuant to subsection [(5)] (6) of this section.

21 **SECTION 2.** ORS 479.530 is amended to read:

22 479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

23 (1) "Approved testing laboratory" means a testing laboratory that meets criteria for electrical
24 product evaluation established by the Director of the Department of Consumer and Business Ser-
25 vices with the approval of the Electrical and Elevator Board under ORS 479.730.

26 (2) "Board" means the Electrical and Elevator Board established under ORS 455.138.

27 (3) "Certified electrical product" means an electrical product that is certified under ORS 479.760
28 and that is not decertified.

29 (4) "Competent inspection service" means an electrical inspection service of a city or county
30 administered under ORS 455.148 or 455.150 that employs electrical inspectors who are certified to
31 meet standards under ORS 479.810.

32 (5) "Commercial electrical air conditioning equipment" means heating, cooling, refrigeration,
33 dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if used in
34 commerce, industry or government and if installed in a place not accessible to the general public
35 other than the switches regulating the operation of the equipment.

36 (6) "Demarcation point" means the place of interconnection between the communications cabl-
37 ing, terminal equipment or protective apparatus of the telecommunications service provider and the
38 customer's premises.

39 (7) "Department" means the Department of Consumer and Business Services.

40 (8) "Director" means the Director of the Department of Consumer and Business Services.

41 (9) "Dwelling unit" means one or more rooms for the use of one or more persons as a house-
42 keeping unit with space for eating, living and sleeping and permanent provisions for cooking and
43 sanitation.

44 (10) "Electrical installations" means the construction or installation of electrical wiring and the
45 permanent attachment or installation of electrical products in or on any structure that is not itself

1 an electrical product. “Electrical installation” also means the maintenance or repair of installed
2 electrical wiring and permanently attached electrical products. “Electrical installation” does not
3 include an oil module.

4 (11) “Electrical product” means any electrical equipment, [*appliance,*] material, device or appa-
5 ratus [*to convey or be*] **that, except as provided in ORS 479.540, requires a license or permit to**
6 **install and either conveys or is** operated by electrical current.

7 (12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like
8 that are used as part of or in connection with an electrical installation.

9 (13) “Field evaluation firm” means an independent organization that provides:

10 (a) Evaluations or testing, or both; and

11 (b) Documentation regarding compliance with electrical product safety standards and with the
12 electrical installation safety code.

13 (14) “Industrial electrical equipment” means electrical products used in industry or government
14 that utilizes electric energy for mechanical, chemical, heating, lighting or similar purposes, that is
15 designed to service or produce a product and that is used directly in the production of the service
16 or product.

17 (15) “Installation label” means an adhesive tag issued by governmental agencies that administer
18 the Electrical Safety Law to licensed electrical contractors for application to those minor electrical
19 installations for which the board by rule determines to be appropriate for random inspections.

20 (16) “License” means an annual permit issued by the department under ORS 479.630 authorizing
21 the person whose name appears as licensee thereon to act as an electrical contractor, supervising
22 electrician, journeyman electrician, apprentice electrician or limited elevator journeyman as indi-
23 cated thereon.

24 (17) “Minimum safety standards” means safety standards prescribed by concurrence of the board
25 and the director under ORS 479.730.

26 (18) “Multifamily dwelling” means a building containing more than one dwelling unit.

27 (19) “Oil module” means a prefabricated structure manufactured to the specifications of the
28 purchaser and used outside this state in the exploration for or processing or extraction of petroleum
29 products.

30 (20) “Permit” means an official document or card issued by the enforcing agency to authorize
31 performance of a specified electrical installation.

32 (21) “Single family dwelling” means a building consisting solely of one dwelling unit.

33 (22) “Telecommunications service provider” means a telecommunications carrier as defined in
34 ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as
35 defined in ORS 759.005.

36 (23) “Uncertified product” means any electrical product that is not an electrical product certi-
37 fied under ORS 479.760.

38 **SECTION 3.** ORS 479.540 is amended to read:

39 479.540. (1) Except as otherwise provided in this subsection, a person is not required to obtain
40 a license to make an electrical installation on residential or farm property that is owned by the
41 person or a member of the person’s immediate family if the property is not intended for sale, ex-
42 change, lease or rent. The following apply to the exemption established in this subsection:

43 (a) The exemption established for a person under this subsection does not exempt the work
44 performed by the person from having to comply with the requirements for such work under ORS
45 chapter 455 or this chapter and rules adopted thereunder.

1 (b) If the property is a building used as a residence and is for rent, lease, sale or exchange, this
2 subsection establishes an exemption for work on, alterations to or replacement of parts of electrical
3 installations as necessary for maintenance of the existing electrical installations on that property,
4 but does not exempt new electrical installations or substantial alterations to existing electrical in-
5 stallations on that property. As used in this paragraph, “new electrical installations or substantial
6 alterations” does not include the replacement of an existing garbage disposal, dishwasher or electric
7 hot water heater with a similar appliance of 30 amps or less, single phase, by a landlord, landlord’s
8 agent or the employee of the landlord or landlord’s agent.

9 (2) An electrical contractor license is not required in connection with an electrical installation:

10 (a) Of meters and similar devices for measuring electricity by a person principally engaged in
11 the business of generating or selling electricity in connection with the construction or maintenance
12 of electrical lines, wires or equipment.

13 (b) Of ignition or lighting systems for motor vehicles.

14 (c) To be made by a person on the person’s property in connection with the person’s business.

15 (d) To be made by a public utility, consumer-owned utility as defined in ORS 757.270, telecom-
16 munications carrier as defined in ORS 133.721, competitive telecommunications provider as defined
17 in ORS 759.005 or municipality for generation, transmission or distribution of electricity on property
18 that the utility, carrier, provider or municipality owns or manages.

19 (3) A person whose sole business is generating or selling electricity in connection with the
20 construction or maintenance of electrical lines, wires or equipment, is not required to obtain a li-
21 cense to transform, transmit or distribute electricity from its source to the service head of the
22 premises to be supplied thereby.

23 (4)(a) A person is not required to obtain a license for the repair or replacement of light fixtures,
24 light switches, lighting ballast, electrical outlets or smoke alarms in a building used for housing
25 purposes that is owned, leased, managed or operated by a housing authority and the person doing
26 the repair or replacement is a member of the housing authority’s regular maintenance staff.

27 (b) A license is not required for:

28 (A) Temporary demonstrations;

29 (B) A street lighting system located on a public street or in a right of way if the system is
30 similar to a system provided by a public utility and the installation or maintenance, or both, is
31 performed by a qualified employee of a licensed electrical contractor principally engaged in the
32 business of installing and maintaining such systems; or

33 (C) An outdoor transmission or distribution system, whether overhead or underground, if the
34 system is similar to a system provided by a public utility and the installation or maintenance, or
35 both, is performed by a qualified employee of a licensed electrical contractor principally engaged in
36 the business of installing and maintaining such systems.

37 (c) For the purposes of this subsection, “qualified employee” means an employee who has regis-
38 tered with or graduated from a State of Oregon or federally approved apprenticeship course de-
39 signed for the work being performed. The supervising electrician signature required under ORS
40 479.560 (1)(b) does not apply to contractors working under this subsection.

41 (5) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply:

42 (a) To electrical products owned by, supplied to or to be supplied to a public utility as defined
43 in ORS 757.005, consumer-owned utility as defined in ORS 757.270, telecommunications carrier as
44 defined in ORS 133.721 or competitive telecommunications provider as defined in ORS 759.005;

45 (b) To electrical installations made by or for a public utility, consumer-owned utility, telecom-

1 munications carrier or competitive telecommunications provider if the electrical installations are
2 an integral part of the equipment or electrical products of the utility, carrier or provider; or

3 (c) To any electrical generation plant owned or operated by a municipality to the same extent
4 that a utility, telecommunications carrier or competitive telecommunications provider is exempted
5 under paragraphs (a) and (b) of this subsection.

6 (6) A permit is not required:

7 (a) For the repair or replacement of light fixtures, light switches, lighting ballast, electrical
8 outlets or smoke alarms in a building used for housing purposes that is owned, leased, managed or
9 operated by a housing authority; or

10 (b) For the repair, alteration or replacement of existing electrical products or electrical instal-
11 lations authorized by ORS 479.560 (3) at an industrial plant, a commercial office building, a building
12 that is owned, leased, managed or operated by the state or a local government entity or other fa-
13 cilities designated by the Electrical and Elevator Board when the owner, operating manager or
14 electrical contractor of the facility meets the provisions of ORS 479.630 (1) and (2) and:

15 (A) Obtains a master permit for inspection under ORS 479.560 (3); or

16 (B) Obtains a master individual inspection permit under ORS 479.565.

17 (7) In cases of emergency in industrial plants, a permit is not required in advance for electrical
18 installation made by a person licensed as a general supervising electrician, a general journeyman
19 electrician or an electrical apprentice under ORS 479.630 if an application accompanied by appro-
20 priate fee for a permit is submitted to the Department of Consumer and Business Services within
21 five days after the commencement of such electrical work.

22 (8)(a) A license or permit is not required for the installation or assembly of industrial electrical
23 equipment by the duly authorized agents of the factory, vendor or owner.

24 (b) The license and permit exemptions of this subsection do not apply to activity in an area
25 where industrial electrical equipment is installed in or enters a hazardous location or penetrates
26 or enters a fire rated assembly or plenum rated assembly.

27 (c) As used in this subsection:

28 (A) "Duly authorized agents" means individuals trained by the factory or a vendor or by expe-
29 rience and who are knowledgeable in the operation, maintenance, repair and installation of indus-
30 trial electrical equipment.

31 (B) "Installation or assembly" means the reassembly at a job site of equipment that is wired and
32 assembled at the factory and then disassembled for shipping purposes or of existing equipment that
33 is relocated. "Installation or assembly" does not include work involving field fabricated assemblies
34 or any other electrical product that is not an original part of the industrial electrical equipment.
35 "Installation or assembly" does not include the connection of industrial electrical equipment to a
36 power source.

37 *[(9) A person is not required to obtain a license or permit to set in place and connect a certified*
38 *electrical product as long as the work performed is not an electrical installation as defined in ORS*
39 *479.530.]*

40 *[(10)]* (9) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply to:

41 (a) Electrical installations and repairs involving communication and signal systems of railroad
42 companies.

43 (b) Electrical installations and repairs involving remote and permanent broadcast systems of
44 radio and television stations licensed by the Federal Communications Commission if the systems are
45 not part of the building's permanent wiring.

1 (c) The installing, maintaining, repairing or replacement of telecommunications systems on the
2 provider side of the demarcation point by a telecommunications service provider.

3 (d) The maintaining, repairing or replacement of telecommunications equipment on the customer
4 side of the demarcation point by a telecommunications service provider.

5 (e) Installations, by a telecommunications service provider or an appropriately licensed elec-
6 trical contractor, of telecommunications systems on the customer side of the demarcation point ex-
7 cept:

8 (A) Installations involving more than 10 telecommunications outlets; and

9 (B) Installations of any size that penetrate fire-resistive construction or air handling systems or
10 that pass through hazardous locations.

11 (f) Notwithstanding paragraph (e) of this subsection, installation of telecommunications systems
12 on the customer side of the demarcation point in:

13 (A) One and two family dwellings; and

14 (B) Multifamily dwellings having not more than four dwelling units if the installation is by a
15 telecommunications service provider.

16 (g) Notwithstanding paragraph (e) of this subsection, installation or replacement of cord or plug
17 connected telecommunications equipment on the customer side of the demarcation point.

18 (h) Notwithstanding paragraph (e) of this subsection, installation of patch cord and jumper
19 cross-connected equipment on the customer side of the demarcation point.

20 [(11)] (10)(a) The board may grant partial or complete exemptions by rule for any electrical
21 product from any of the provisions of ORS 455.610 to 455.630 or 479.510 to 479.945 and 479.995 if the
22 board determines that the electrical product does not present a danger to the health and safety of
23 the people of this state.

24 (b) If the board grants an exemption pursuant to subsection (1) of this section, the board may
25 determine that the product may be installed by a person not licensed under ORS 479.510 to 479.945.

26 [(12)] (11) ORS 479.760 does not apply to products described in this subsection that comply with
27 the electrical product safety standards established by concurrence of the board and the Director of
28 the Department of Consumer and Business Services as described under ORS 479.730. This subsection
29 does not exempt any products used in locations determined to be hazardous in the electrical code
30 of this state. The following apply to this subsection:

31 (a) Except as provided in paragraph (b) of this subsection, the exemption under this subsection
32 applies to:

33 (A) The rotating equipment portion of power generation equipment.

34 (B) Testing equipment used in a laboratory or hospital.

35 (C) Commercial electrical air conditioning equipment.

36 (D) Prefabricated work performed by an electrical contractor with licensed electrical personnel
37 in the contractor's place of business for assembly on the job site if the work is composed of parts
38 that meet the electrical product safety standards established by concurrence of the board and the
39 director.

40 (b) Notwithstanding paragraph (a) of this subsection, the board may require any of the products
41 described in paragraph (a) of this subsection to be subject to the certification requirements under
42 ORS 479.760 if the board determines that the product or class of products has presented a fire or
43 life safety hazard in use. A determination under this paragraph shall be effective as to any such
44 product or class of products [*sold or offered for sale*] **installed** after the date of the determination
45 becomes final. The board may reinstate any exemption removed under this paragraph if the board

1 determines that the reasons for the removal of the exemption have been corrected.

2 [(13)] (12)(a) ORS 479.610 does not apply to **installations of** industrial electrical equipment un-
3 less the board determines that the product or class of products may present a fire or life safety
4 hazard.

5 (b) The board may reinstate an exemption removed under this subsection if the product qualifies
6 for reinstatement under:

7 (A) An equipment safety program approved by the board;

8 (B) Equipment minimum safety standards established by concurrence of the board and the di-
9 rector;

10 (C) An evaluation by an approved field evaluation firm;

11 (D) A listing from a nationally recognized testing laboratory;

12 (E) An evaluation of a first model of a product by the board; or

13 (F) Any other method approved by the board.

14 [(14)] (13) ORS 479.760 does not apply to electrical equipment that has been **installed and** in
15 use for one year or more [*and that is offered for sale*].

16 [(15)] (14) A person who holds a limited maintenance specialty contractor license or a limited
17 pump installation specialty contractor license issued under ORS 479.510 to 479.945 or a person who
18 is the employee of such license holder and who is listed with the board as an employee is not re-
19 quired to have a journeyman license or supervising electrician's license to perform work authorized
20 under the person's license.

21 [(16)] (15) A person is not required to obtain a permit for work on, alterations to or replacement
22 of parts of electrical installations as necessary for maintenance of existing electrical installations
23 on residential property owned by the person or by a member of the person's immediate family. This
24 subsection does not establish an exemption for new electrical installations or substantial alterations
25 to existing electrical installations.

26 [(17)] (16) A permit is not required for those minor electrical installations for which the board
27 has authorized an installation label.

28 [(18)] (17) A residential home, as defined in ORS 443.580, and an adult foster home, as defined
29 in ORS 443.705, is not a multifamily dwelling and only electrical installation standards and safety
30 requirements applicable to single family dwellings apply to such homes.

31 [(19)] (18) The permit requirements of ORS 479.550 and the license requirements of ORS 479.620
32 do not apply to cable television installations.

33 [(20)] (19) The provisions of any electrical products code or rule adopted pursuant to ORS
34 479.510 to 479.945 and 479.995 apply to cable and such products installed as part of a cable tele-
35 vision installation.

36 [(21)] (20) As used in this section, "smoke alarm" shall have the meaning given that term under
37 ORS 479.250.

38 **SECTION 4.** ORS 479.610 is amended to read:

39 479.610. Except as provided under ORS 479.540, a person may not install[, *sell or dispose of*] an
40 electrical product [*by gift or otherwise*] in connection with the person's business unless the product
41 is certified under ORS 479.760.

42 **SECTION 5.** ORS 479.730 is amended to read:

43 479.730. In compliance with ORS chapter 183 the Director of the Department of Consumer and
44 Business Services, with the approval of the Electrical and Elevator Board, shall adopt reasonable
45 rules:

1 (1) Establishing, altering or revoking minimum safety standards for workmanship and materials
2 in various classifications of electrical installations.

3 (2) Establishing, altering or revoking electrical product safety standards for design and con-
4 struction of electrical products to be *[sold or disposed of]* **installed** in this state. The standards may
5 allow the certification of electrical products that a testing laboratory approved by the director and
6 the board under ORS 479.760 has tested and found to be safe within the electrical product safety
7 standards established under this subsection.

8 *[(3) Relating to the procedure for certifying and decertifying electrical products to be sold or dis-
9 posed of in this state. The Department of Consumer and Business Services, with the approval of the
10 board, may limit the type of electrical products it accepts for certification under ORS 479.760 (3).]*

11 *[(4)]* (3) Prescribing times, places and circumstances that permits shall be exhibited for in-
12 spection.

13 *[(5)]* (4) Governing the internal organization and procedure for administering and enforcing ORS
14 479.510 to 479.945 and 479.995.

15 *[(6)]* (5) Establishing, altering, approving or revoking minimum standards for electrical training
16 programs.

17 *[(7)]* (6)(a) Establishing which electrical products may be field evaluated by a field evaluation
18 firm rather than certified;

19 (b) Establishing cost-based fees, requirements and procedures for approving, maintaining and
20 suspending or revoking approvals of field evaluation firms;

21 (c) Establishing:

22 (A) Requirements and procedures for the field evaluation of electrical products; **and**

23 (B) Requirements and procedures for issuing field evaluation labels for the electrical products
24 evaluated by field evaluation firms[,] **and** testing laboratories *[and special deputies; and]*

25 *[(C) Cost-based fees for special deputy evaluations];*

26 (d) Establishing requirements and procedures for preparation of reports regarding installation
27 safety issued by field evaluation firms;

28 (e) Establishing when an inspecting jurisdiction may require a report from a field evaluation
29 firm; and

30 (f) Establishing other requirements **as** necessary to carry out this subsection *[and subsection (8)
31 of this section].*

32 *[(8) Establishing a program to authorize special deputies to conduct field inspections provided for
33 under subsection (7) of this section.]*

34 **SECTION 6.** ORS 479.835 is amended to read:

35 479.835. *[(1)]* Any person who purchases an electrical product *[sold or disposed of in violation
36 of ORS 479.610 may recover from a person violating ORS 479.610 an amount equal to the purchase
37 price of the electrical product if]* **may recover the purchase price from the seller if the electrical
38 product does not meet all applicable state and federal law and** the purchaser returns the elec-
39 trical product within 90 days from the date of purchase.

40 *[(2) Any person may complain to the Electrical and Elevator Board in writing of any violation of
41 ORS 479.610. The board shall consider the complaint at the next regular meeting of the board and may
42 make a determination under ORS 479.995. The board may authorize an investigation necessary to
43 complete its duties under this subsection.]*

44 **SECTION 7.** ORS 479.853 is amended to read:

45 479.853. If any person is aggrieved by a decision made upon inspection under authority of ORS

1 455.148, 455.150 or 479.510 to 479.945 and 479.995 of an electrical product or electrical inspection,
2 the person may appeal the decision. The following apply to an appeal under this section:

3 (1) An appeal under this section shall be subject to ORS chapter 183.

4 (2) An appeal under this section shall be made first to the Chief Electrical Inspector of the
5 Department of Consumer and Business Services. The decision of the department chief inspector may
6 be appealed to the Electrical and Elevator Board. The decision of the Electrical and Elevator Board
7 may only be appealed to the Director of the Department of Consumer and Business Services if codes
8 in addition to the electrical code are at issue.

9 (3) If the Electrical and Elevator Board determines that a decision by the Chief Electrical In-
10 spector is a major code interpretation, then the inspector shall distribute the decision in writing to
11 all public and private electrical inspection authorities in the state. The decision shall be distributed
12 within 60 days after the board's determination, and there shall be no charge for the distribution of
13 the decision. As used in this subsection, a "major code interpretation" means a code interpretation
14 decision that affects or may affect more than one job site or more than one inspection jurisdiction.

15 (4) If an appeal is made under this section, an inspection authority shall extend the electrical
16 plan review deadline by the number of days it takes for a final decision to be issued for the appeal.

17 (5) Unless the department determines that the electrical product or electrical installation pre-
18 sents an immediate fire or life safety hazard, a person may operate an electrical product or elec-
19 trical installation that is the subject of an appeal under this section until the appeal process is
20 complete. If the department determines that an immediate fire or life safety hazard exists and the
21 product or installation may not be operated during appeal, the department shall provide the person
22 with a written report detailing the problems found by the department. If a determination is made
23 under this subsection that products described in ORS 479.540 [(12)] (11) may not be operated during
24 appeal, that determination may be appealed immediately under the procedure established in sub-
25 section (2) of this section without first completing any appeal procedure established by a city or
26 county.

27