

ADMINISTRATIVE RULES

Amounts under \$10 will not be refunded. Conditions for which a refund may be granted are:

(A) Denial of an application for preliminary certification or for facilities that qualify under OAR 330-090-0130(2) of final certification; or

(B) Denial of a portion of costs requested in an application for preliminary certification or for facilities that qualify under OAR 330-090-0130(2) of final certification; or,

(C) A request to amend a preliminary certification resulting in decreased eligible costs. A refund will not be granted for any costs that are included in a pending certification.

(c) If a request to amend a preliminary certification results in facility re-certification with increased eligible cost then additional application payments will be paid for the additional cost as specified in (2)(a) of this rule.

(d) No facilities will be exempt from these requirements including applications for BETC pass-through under OAR 330-090-0140.

(e) The payment is a required part of a completed preliminary certification application per OAR 330-090-0130(4)(j), except for facilities that qualify under OAR 330-090-0130(2). Preliminary certifications will only be issued if the application is complete. In addition, the applicant may be required to pay for costs incurred in connection with the application that exceed these payments and which the Director of ODOE determines are incurred solely in connection with processing the application. The applicant will be advised of any additional costs the applicant must pay before the costs are incurred.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1986, f. & ef. 8-29-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10

Department of Environmental Quality Chapter 340

Rule Caption: Amend the Clean Water State Revolving Fund — Permanent Rules.

Adm. Order No.: DEQ 7-2009

Filed with Sec. of State: 10-28-2009

Certified to be Effective: 10-28-09

Notice Publication Date: 8-1-2009

Rules Adopted: 340-054-0098, 340-054-0100, 340-054-0102, 340-054-0104, 340-054-0106, 340-054-0108

Rules Amended: 340-054-0024, 340-054-0025, 340-054-0035

Subject: The American Recovery and Reinvestment Act of 2009 (the Act) allows the U.S. Environmental Protection Agency to allocate \$44.3 million to Oregon DEQ's Clean Water State Revolving Fund (CWSRF) to create jobs and promote economic recovery. To meet the requirements of the Act, the Environmental Quality Commission (EQC) adopted temporary amendments to DEQ's CWSRF loan program administrative rules in April 2009. By law, these temporary rules will expire in October 2009. The adoption of this permanent rulemaking ensures DEQ's program will meet the requirements of the Act.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-054-0024

Design Loans and Construction Loans

The Department will administer design loans or construction loans to address point source or nonpoint source pollution. Applications may be submitted in response to the Department's annual solicitation or at anytime during the program year. The Department may require different application forms for point source projects and nonpoint source projects.

(1) General Requirements and Provisions. Applicants applying for CWSRF financing for design loans or construction loans must submit:

(a) A fully executed and complete application on a form provided by the Department;

(b) A completed Checklist of Exhibits and Requirements and associated documents;

(c) Evidence that the Applicant has the authority to undertake the project;

(d) Audited financial statements for the previous three years and the Applicant's current budget (unless waived by the Department in its discretion);

(e) All pertinent requirements listed in OAR 340-054-0035; and

(f) Any other information requested by the Department.

(2) Design Loans or Construction Loans. The Department will administer loans for activities that result in the design or construction of sewage facilities, nonpoint source control or estuary management projects. When approved by the Department, security measures intended to prevent intrusion or damage to such facilities or projects, or interruption of a facility or project's processes are eligible design or construction costs. Design loans or construction loans have the following terms and conditions:

(a) The maximum loan amount must be in accordance with OAR 340-054-0025(6);

(b) If not implementing a sponsorship option, the interest rate and corresponding loan terms for design or construction loans must be in accordance with OAR 340-054-0065(5)(f), or 340-054-0065(5)(g).

(c) The loan repayment period (as defined in the loan agreement) must begin on the outstanding principal and interest balance in accordance with OAR 340-054-0065(9); and

(d) The annual loan fee must be imposed on any unpaid balance in accordance with OAR 340-054-0065(7).

(3) Sponsorship Option for protection or restoration of water resources.

(a) A public agency (sponsoring community) may apply to the Department for a CWSRF loan to finance a sewage collection system or sewage treatment facility project combined with a water resource activity. Within this sponsorship option, the CWSRF program may fund both projects under a single CWSRF loan if the Department determines that the water resource activity meets program eligibility, funds are available, and the ranking of the sewage project allows its funding.

(b) The interest rate for the consolidated financing will be reduced whenever possible to a rate resulting in the semi-annual payment for the joint project being equal to the expected semi-annual payment with a traditional CWSRF loan for the sewage collection system or sewage treatment facility project only.

(c) A public agency that participates in this sponsorship option may either implement the water resource activity itself or may enter into a sponsorship agreement with an implementing partner who will implement the water resource activity. The sponsoring community remains responsible, however, for both the successful completion of the water resource activity and for the repayment of the CWSRF loan. The implementing partner will not be responsible for any repayment to the CWSRF program.

(d) All applicants for the sponsorship option must submit:

(A) A completed sponsorship application and project description using a form provided by the Department;

(B) Evidence that the sponsoring community and implementing partner (if an implementing partner is involved) have authority to undertake the water resource activity;

(C) An executed copy of the sponsorship agreement entered into with the implementing partner, if applicable; and

(D) Any other information requested by the Department.

(e) Financial terms of the sponsorship option will be as follows:

(A) The interest rate for the sponsorship option must be in accordance with OAR 340-054-0065(5)(h); and

(B) The requirements of OAR 340-054-0065 will be applicable to the sponsorship option except as specifically modified in this rule.

(f) The Department will determine the total amount of CWSRF funds to be allocated at the reduced interest rate through the sponsorship option in each program year.

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.429 & 468.439

Hist.: DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-10 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0025

Application Process; Project Priority List; Intended Use Plan; Allocation of Funds

The Department will periodically, but not less than annually, develop and submit an Intended Use Plan (IUP) to EPA as described in section 606 of the CWA and 40 CFR § 35.3150. The IUP will describe the proposed uses of the CWSRF and will include a project priority list numerically ranking all eligible applications received. The Department will develop the IUP using the following processes in this rule.

(1) Notice: The Department will notify interested parties at least annually of the opportunity to submit applications. Interested parties

ADMINISTRATIVE RULES

include, but are not limited to, watershed councils, counties, soil and water conservation districts, special districts and all of the incorporated cities listed in the current edition of the Oregon Blue Book.

(2) Applications: For a project to be considered for the project priority list, an Applicant must submit a completed application; the application must address an imminent, actual or threatened water quality problem; and the project must be eligible for funding under OAR 340-054-0015.

(3) Timing: In addition to applications received in response to the solicitation for applications indicated in OAR 340-054-0025(1), the Department will accept applications at any time.

(4) Project Priority List Ranking:

(a) The Department will develop a project priority list by ranking all eligible proposed projects using the criteria in Table 1 of this rule. Projects will be numerically ranked based on the sum of the points awarded each proposed project. A maximum of one hundred (100) points is available for a proposed project.

(b) The Department will update the project priority list and the IUP at least every four months or upon receipt by the Department of five eligible applications, whichever timeframe is shorter. If no eligible applications are received during a four month period, the project priority list will not be updated.

TABLE 1

CWSRF Project Ranking Criteria

Category 1: Proposed Project's anticipated benefit for water quality or public health

1A — (0 or 8 points) — Project addresses water quality or public health issue within a "special status" water body

1B — (0-6 points) — Project addresses noncompliance with water quality standards, a public health issue or effluent limits related to surface waters

1C — (0-6 points) — Project addresses noncompliance with water quality standards or a public health issue related to groundwater

1D — (0-12 points) — Project ensures that a source already in compliance maintains that compliance.

1E — (0-8 points) — Project improves or sustains aquatic habitat supporting state or federally threatened or endangered species

1F — (0-12 points) — Project incorporates wastewater reuse or a water quality-related conservation process

1G — (0-7 points) — Project improves water quality by mitigating any of the following pollutants: temperature, dissolved oxygen, contaminated sediments, toxics on the EPA Priority Pollutants List, bacteria or nutrients

1H — (0-5 points) — Project supports the implementation of a Total Maximum Daily Load (TMDL) allocation or action plan for a Ground Water Management Area

1I — (0-6 points) — Project addresses a water quality or public health issue involving "Persistent Bioaccumulative Toxics" (PBT's)

Category 2: Potential water quality or public health consequences of not funding the proposed project

2A — (0-5 points) — If the proposed project is not implemented, water quality standards are likely to be exceeded or existing exceedances are likely to worsen

2B — (0-5 points) — If the proposed project is not implemented, the resulting impact is likely to cause a public health problem

2C — (0-5 points) — A unique opportunity to implement the proposed project currently exists due to timing, finances or other limitations that would not allow this project to be implemented in the future

Category 3: Other considerations

3A — (0-3 points) — Project has significant educational or outreach component

3B — (0-3 points) — Project demonstrates innovative technology which is transferable

3C — (0-3 points) — Project is a partnership with other group(s), incorporating self-help, financial or in-kind support

3D — (0-5 points) — Project incorporates monitoring, reporting or adaptive management

3E — (0 or 1 point) — Project addresses or includes risk management, safety or security measures

3F — (0-minus 5 points) — Applicant's past performance with previous Department loans or grants such as, but not limited to, failure to satisfy match requirements of a grant, failure to complete the project or failure to submit any other required deliverable in a timely manner.

(5) Draft Intended Use Plan, Public Notice and Review:

(a) The Department will update the IUP whenever changes are made to the PPL.

(b) With each update the Department will notify all applicants whose projects are included within the draft IUP of their ranking on the PPL.

(c) The Department will provide notice and an opportunity for the public to comment on proposed changes to the IUP, and will make the draft IUP available to the public.

(d) Except for revisions to the IUP resulting from applications for expedited loans, the Department will provide at least 30 days for public comments on the draft IUP. The Department will provide at least 5 days for comment on changes to the IUP resulting from new applications for expedited loans.

(e) During the comment period, any Applicant may request the Department to reevaluate a project's rank on the proposed project priority list or to make other changes to the IUP.

(f) The Department will consider all comments submitted during the comment period before finalizing the IUP.

(6) Allocation of Funds:

(a) During any Department program year (July 1 through June 30), no Borrower on the project priority list (including either loan increases or new project loans) may be allocated more than the greater of \$2.5 million or 15% of the total available funds as reported in the initial IUP for that program year. If CWSRF moneys are available after allocating this limit to each eligible Applicant, additional funds may be allocated above this limit.

(b) The Department will establish the following funding categories within the CWSRF: Expedited Loan Reserve, Small Community Reserve, Planning Reserve, and general fund. The Department will first allocate annual funds to the three reserves in accordance with the criteria in sections (6)(c)(A), (6)(c)(B) and (6)(c)(C). Funds not allocated to one of the reserves will be allocated to the CWSRF general fund.

(c) The Department will assign projects on the priority list to an appropriate reserve or to the CWSRF general fund. Requests for increases to existing loans will be awarded first. Increases will be awarded from the appropriate reserve or the general fund. Following any allocations for increases, the Department will award loans to projects within each reserve and the general fund for new projects as described in sections (6)(c)(A), (6)(c)(B), (6)(c)(C) and (6)(c)(D)

(A) Expedited Loans Reserve. A reserve of \$2 million will be established to fund expedited loans. The Director may increase the cap on this reserve. Individual urgent repair loans are limited to \$150,000. The maximum amount available for a single emergency loan is \$1.85 million. Emergency loans and urgent repair loans will be awarded in rank order. Unused funds still remaining in the expedited loan reserve on May 31 of the program year can be reallocated to the CWSRF general fund.

(B) Small Community Reserve. A maximum of 15% of the total CWSRF monies will be available in each program year for allocation to small community loans. Local community, design or construction projects eligible within this reserve will be awarded loans in rank order.

(i) Each project allocation from this reserve will be for not more than the greater of \$750,000 or 25% of the reserve, until all eligible small community requests have been allocated funds. If reserve funds still remain on March 1st of the program year, these remaining funds may be allocated to any unfunded portions of a small community loan request in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(B)(i) above, any funds still remaining in the small community reserve can be moved to the CWSRF general fund.

(C) Planning Loan Reserve. A maximum of \$3 million of the total CWSRF will be available in each program year for allocation to planning loans. Projects will be selected from the project priority list in rank order for this reserve.

(i) Each individual allocation from the planning loan reserve will initially not exceed \$150,000. If reserve funds still remain on March 1st of the program year, these remaining funds may be reallocated to any unfunded portions of planning loan requests in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(C)(i) above, any funds still remaining in the planning reserve can be moved to the CWSRF general fund.

(D) General Fund. All new design or construction project loans not funded from a reserve will be allocated from the general fund. Any remaining emergency or urgent repair, small community or planning projects not already allocated funds from their respective reserves, or allocated less than the total loan amount requested, may be awarded funding in rank order subject to available funds and the maximum loan amount for the program year.

(E) Loan Increases. Upon request, the Department may increase the funding for previously financed projects up to the maximum loan amount defined for each borrower in section (6)(a) of this rule. These loan increases may be offered by either providing an additional loan at the current interest rate or increasing the amount of the existing loan. Awards for loan increases will be awarded in rank order.

(7) Project Priority List Modification:

(a) The following conditions apply to projects on the project priority list.

(A) Ranked projects may remain on the project priority list for up to 36 months while pursuing funding. After 36 months, the Department will notify the Applicant in writing that the project is being removed from the list.

(B) Applicants whose projects are removed from the project priority list because they have exceeded the 36 month limit may resubmit their projects to the program for ranking and incorporation into the next update of the IUP.

ADMINISTRATIVE RULES

(C) The Department may provide one six-month extension to applicants requesting to remain on the list beyond the 36 month limit. Applicants requesting an extension must submit a progress report indicating the status of their effort in pursuing CWSRF financing and an updated time frame indicating when they expect to have completed all requirements necessary to be awarded funding.

(D) The Department may remove a project from the project priority list upon written notice to the applicant at any time the Department determines that the project does not meet eligibility requirements, the Borrower no longer requires CWSRF financing or the Applicant requests removal.

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.433 & 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0035

Final Stage of Application Process for Design Loans or Construction Loans

The Department will administer loans for design or construction of both point source and nonpoint source projects.

(1) In addition to the loan application and items specified in OAR 340-054-0024(1), applicants applying for a CWSRF loan for a design or construction project must submit the following documents to be considered for loan approval:

(a) A planning document that the Department determines adequately documents the efficacy and appropriateness of the proposed project to remediate the identified water pollution control problem. For sewage collection systems or sewage treatment facilities, the planning document must meet the requirements of the Department's CWSRF Procedures Manual (February 1, 2008) and other planning guidance in effect at the time of submittal

(b) In accordance with OAR 340-018-0050, a Land Use Compatibility Statement (LUCS) from the appropriate planning jurisdiction demonstrating compliance with the Department of Land Conservation and Development's (DLCD) acknowledged comprehensive land use plan and statewide land use planning goals.

(c) An environmental review prepared in accordance with the requirements of the EPA approved State Environmental Review Process (SERP) described in the CWSRF Procedures Manual (February 1, 2008).

(d) Any other information requested by the Department.

(2) In addition to the requirements of section (1) of this rule, applicants for a CWSRF loan for the design or construction of sewage collection systems or sewage treatment projects must submit the following documents to be considered for loan approval:

(a) A Department approved sewer use ordinance adopted by all municipalities and service districts serviced by this project that meets the provisions of this section. The sewer use ordinances must prohibit any new connections from inflow sources into the sewage collection system; and require that no wastewater introduced into the sewage collection system contain toxics or other pollutants in amounts or concentrations that have the potential of endangering public safety or adversely affecting the project or precluding the selection of the most cost-effective alternative for the project.

(b) A demonstration that the Applicant has adopted a user charge system that meets the requirements of the User Charge System section of the CWSRF Procedures Manual (February 1, 2008).

(c) For projects serving two or more municipalities, the Applicant must submit the executed inter-municipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed sewage collection system or sewage treatment facility.

(d) In accordance with OAR chapter 340, division 052, Applicants for construction-only loans must submit Department approved plans and specifications for the project as applicable.

(e) For projects with estimated costs in excess of \$10 million, the Applicant must submit a value engineering study prepared in accordance with the requirements of the CWSRF Procedures Manual (February 1, 2008).

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.433 & 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative correction 10-29-98; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 2-2008, f. & cert. ef. 2-27-08; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0098

Definitions

The following definitions apply to OAR 340-054-0098 through OAR 340-054-0108:

(1) "Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5, signed into law on February 17, 2009.

(2) "Principal forgiveness" means the portion of the total amount borrowed that is not required to be repaid.

Stat. Auth.: ORS 468.020 & 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0100

Implementation within the Clean Water State Revolving Fund Program

(1) OAR 340-054-0098 through 340-054-0108 prescribe the use of Act funds through the Clean Water State Revolving Fund (CWSRF) when such funds are available to the department.

(2) When Act funds are available to the department, these funds must be awarded to public agencies in accordance with the Act and are subject to the requirements of the Clean Water State Revolving Fund.

(3) All requirements for projects funded under the Act not specifically addressed in OAR 340-054-0098 through 340-054-0108 are subject to 340-054-0001 through 340-054-0065.

Stat. Auth.: ORS 468.020 & 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0102

Project Eligibility under the Act

(1) Eligibility for funding under the Act is the same as prescribed in OAR 340-054-0015(1) except planning, as defined in 340-054-0010(38), is not eligible.

(2) The acquisition of land for any purpose, or the development or purchase of an easement are not eligible under the Act.

Stat. Auth.: ORS 468.020 & 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0104

Use of Funds, Intended Use Plan Under the Act

(1) Funding purpose. Notwithstanding OAR 340-054-0020, funding provided under the Act may be used only for the following CWSRF purposes:

(a) To make loans, or purchase bonds;

(b) To pay CWSRF program administration costs to the extent allowed by federal law;

(c) To earn interest on fund accounts.

(2) Loan Increases. Notwithstanding OAR 340-054-0025(6)(c), loan increases using Act funding will only be made to loans funded by the Act and only to the extent consistent with OAR 340-054-0106.

(3) Existing loan agreement. A borrower with a loan agreement executed prior to October 1, 2008 is not eligible to receive funding under the Act for a project as described and funded under that existing loan agreement.

(4) Loan reserve. Notwithstanding OAR 340-054-0065(2)(c)(B), the required reserve of any individual loan cannot be funded with CWSRF loan proceeds provided from the Act.

(5) Intended Use Plan (IUP):

(a) A project must be listed in the Intended Use Plan to be eligible for funding under the Act.

(b) Notwithstanding OAR 340-054-0025(5)(d), the department must provide at least 14 days for public comments on the draft Intended Use Plan.

Stat. Auth.: ORS 468.020 & 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0106

Allocation of Act Funds

Notwithstanding OAR 340-054-0025(6), funds made available by the Act must be allocated as follows:

(1) Funding of applicants. Funds will be offered to an applicant on the project priority list in rank order, subject to eligibility. A project is not eligible unless all required documentation is complete and appropriate envi-

ADMINISTRATIVE RULES

ronmental review, including any required notice and opportunity for public comment, has been completed at the time the department finalizes the intended use plan.

(2) Applicant's funding limit. The department will determine the amount of funding to be provided to an applicant, but the amount of any loan may not exceed \$5 million per applicant, except as provided in section (3) of this rule.

(3) Allocation of remaining funds. If there are no applicants on the project priority list eligible for a loan under the Act, a borrower that has received partial funding under the Act may be allocated additional funding. The department may allocate the remaining funds to a borrower based on rank order not to exceed 25 percent of the remaining funds or \$2 million, whichever is greater.

(4) Green Project Reserve. The department must establish a green project reserve with 20 percent of the funding received under the Act for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. If the department determines and certifies there are insufficient eligible projects for funding under this reserve, the reserve may be allocated to other eligible projects under the Act.

(5) Funding categories. Funds available under the Act may not be used to establish an Expedited Loan reserve, a Small Community reserve or a Planning reserve.

Stat. Auth.: ORS 468.020 & 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

340-054-0108

Financial Terms

Notwithstanding OAR 340-054-0065, the following financial terms apply to any loan funded under the Act.

(1) Interest rates. A loan may be provided at a zero percent interest rate.

(2) Principal forgiveness.

(a) A loan made to a small community as defined in OAR 340-054-0010(48) must include 75 percent principal forgiveness on the total amount borrowed.

(b) All other loans must include 50 percent principal forgiveness on the total amount borrowed.

(c) Principal forgiveness is granted upon execution of the loan agreement.

Stat. Auth.: ORS 468.020 & 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09; DEQ 7-2009, f. & cert. ef. 10-28-09

Department of Fish and Wildlife Chapter 635

Rule Caption: Commercial Elk River Terminal Area Chinook Salmon Fishery Closed.

Adm. Order No.: DFW 132-2009(Temp)

Filed with Sec. of State: 10-19-2009

Certified to be Effective: 10-19-09 thru 10-31-09

Notice Publication Date:

Rules Amended: 635-003-0085

Rules Suspended: 635-003-0085(T)

Subject: Amend rule to close the commercial Elk River terminal area Chinook salmon fishery effective October 19, 2009 due to attainment of the allocation of this valuable resource.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-003-0085

Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:

(1) Elk River Ocean Terminal Area — from October 15 through 11:59 p.m. Monday, October 19, 2009 in the area described in section (1)(a) of this rule:

(a) The open area is all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°43'48" N. Lat. 124°32'08" W. Long., thence due East through Tichenor Rock (42°43'48" N. Lat. 124°30'36" W. Long.) to shore;

(b) During the season described in this section (1), it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks or to fish more than four spreads per line; it is unlawful to make more than one landing of Chinook per day; and it is unlawful to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Port Orford.

(2) Tillamook Bay Ocean Terminal Area — from September 1 through the earlier of October 31 or quota of 300 Chinook in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (45°29'48" N. Lat.) and Twin Rocks 45°35'54" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is unlawful to take Chinook salmon less than 28 inches in total length and it is unlawful to use multipoint or barbed hooks or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 25 Chinook per calendar week (Sunday through Saturday). Landings are restricted to Garibaldi.

Stat. Auth.: ORS 496.138, 496.146, & 506.119
Stats. Implemented: ORS 506.129
Hist.: FWC 48-1984(Temp), f. & ef. 8-31-84; 57-1984(Temp), f. & ef. 9-15-84; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 78-2006(Temp), f. 8-7-06, cert. ef. 9-1-06 thru 12-15-06; Administrative correction 12-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 65-2008(Temp), f. 6-20-08, cert. ef. 9-1-08 thru 12-31-08; DFW 128-2008(Temp), f. 10-9-08, cert. ef. 10-12-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 102-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 132-2009(Temp), f. & cert. ef. 10-19-09 thru 10-31-09

Rule Caption: Recreational Coho Bag Limit Increased Between Tongue Point and Oregon-Washington Border Above McNary Dam.

Adm. Order No.: DFW 133-2009(Temp)

Filed with Sec. of State: 10-20-2009

Certified to be Effective: 10-22-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-023-0130

Subject: Amended rule allows retention of one additional adult coho salmon beginning October 22, 2009 and until further notice in the mainstem Columbia River recreational fishery from the Tongue Point-Rocky Point line upstream to the Oregon-Washington border above McNary Dam. All non adipose fin-clipped coho caught downstream of the Hood River Bridge must be released unharmed. Modifications are consistent with action taken October 19, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0130

Fall Sport Fishery

(1) The 2009 Oregon Sport Fishing Regulations provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2009 Oregon Sport Fishing Regulations.

(2) Notwithstanding all other specifications and restrictions in the 2009 Oregon Sport Fishing Regulations:

(a) Effective August 1 through December 31, 2009, in the mainstem Columbia River from a north-south line through Buoy 10 upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, the combined bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except:

(A) Retention of Chinook is prohibited during September 1 through December 31, 2009;

(B) Effective September 1 through December 31, 2009, the daily bag limit may include up to three adipose fin-clipped adult coho salmon.

(b) Effective August 1 through December 31, 2009, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the