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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OHCS 30-2025
CHAPTER 813
OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

FILED
07/09/2025 10:19 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updating division 90 rules to reflect to 2025 Qualified Allocation Plan.

EFFECTIVE DATE: 07/09/2025 THROUGH 01/04/2026

AGENCY APPROVED DATE: 07/08/2025

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NEED FOR THE RULE(S):

We needed to update the rules to reflect the changes in the 2025 QAP and change language from NOFA to ORCA (Oregon Centralized Application).

JUSTIFICATION OF TEMPORARY FILING:

The QAP was released in February 2025 and went into effect immediately. The application period opened for 9%s and 4%s and required immediate changes to the rules to reflect the QAP. Waiting until the permanent rules were in place would have been after the 9% applications were completed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Qualified Allocation Plan and ORCA Manual located on agency website.

HOUSING IMPACT STATEMENT:

These rules do not affect the cost of development of a 6000 square foot parcel and the construction of a 1200 square foot detached single-family dwelling on that parcel.

RULES:
813-090-0010, 813-090-0015, 813-090-0040

AMEND: 813-090-0010

RULE TITLE: Definitions

RULE SUMMARY: Updating division 90 rules to reflect to 2025 Qualified Allocation Plan.

RULE TEXT:
Terms used throughout OAR chapter 813, division 090 may be defined in 26 U.S.C. § 42, in Oregon Revised Statute (ORS), or in the OHCS General Definitions (OAR 813-005-0005). Terms used within this division observe those definitions except as defined below. All words and terms used in OAR chapter 813, division 90 are as provided in 813-005-0005 and herein. As used in these rules:

(1) “Applicable fraction” means the portion of a building that is treated as low-income use and generally eligible for the low-income housing tax credits.
(2) “Applicable percentage” means the IRS published or Congress set credit rating used in calculating the low-income housing tax credit. The applicable percentage includes the applicable federal rate (AFR) for the 9% annual credit which applies to eligible construction and substantial rehabilitation costs, and the 4% annual credit which applies to the acquisition cost of existing buildings to be rehabilitated.
(3) “Applicant” means a person or entity that applies for an allocation of LIHTCs from OHCS by completing an application provided by OHCS. Once OHCS accepts the applicant’s application and an allocation is made, the applicant becomes a project owner.
(4) “Carryover allocation” means an allocation of LIHTCs that is made with respect to a project pursuant to IRC Section 42(h)(1)(E) and/or IRC Section 42(h)(1)(F), and in conformity with IRS Notice 89-1 and Treasury Regulations Section 1.42-6. OHCS issues a carryover allocation when a project will not be placed in service by close of the calendar year of the allocation but has incurred more than 10% of its anticipated costs within the calendar year in which the allocation was received or six (6) months after the date of the carryover.
(5) “Credit authority” means the dollar amount of low-income housing tax credits available for allocation by OHCS for any calendar year and can include estimates of future amounts.
(6) “Declaration of Land Use Restrictive Covenants” means a recorded document against a property that evidences the original intent and limitations of the LIHTC affordability (and other program) restrictions.
(7) “Financial feasibility” means the viability of a project after taking into consideration its total costs and projected revenues.
(8) An “IRS Form 8609” or “Form 8609” means the Internal Revenue Code (IRS) Form 8609, Low-Income Housing Credit Allocation and Certification that is issued to a Project Owner when a carryover allocation is approved. Owners of qualified low-income building(s) are allowed a low-income housing credit for each qualified building over a 10-year credit period. A separate Form 8609 must be issued for each qualified low-income building in a multiple building project.
(9) “Housing credit agency” means the designated state agency that administers IRC Section 42 and allocates LIHTCs on behalf of the Internal Revenue Service.
(10) “Low-income housing tax credit” or “LIHTCs” means the low-income housing tax credits available on a project pursuant to IRC Section 42. The amount of low-income housing tax credits available for allocation to a project is the amount that OHCS determines is necessary to make the project financially feasible but in no instance can it be greater than the applicable percentage of the qualified basis of each qualified low-income building.
(11) “Oregon Centralized Application” or “ORCA” means the method to apply for low-income housing tax credits and other financial resources.
(12) “Placed in service” means a project is completed and occupied by qualifying residents. In the case of multiple-building projects, each building has its own placed-in-service date.
(13) “Program requirements” means these administrative rules, all funding agreement terms and conditions, OHCS directives, applicable OHCS handbooks and manuals (including but not limited to OHCS’ LIHTC Manual defined herein and the General Policy and Guideline Manual described in OAR 813-005-0020, IRC Section 42 of 1986, as amended, and corresponding regulations, and other applicable laws, including federal, state, and local laws, codes, ordinances, and orders, all of which as may be amended from time to time.
(14) “Project” means a “qualified low-income housing project” as defined in IRC Section 42(g).
(15) “Project owner” means a person or entity whose application for LIHTCs has been accepted by OHCS and who is the owner also known as the borrower of a Project.
(16) “Qualified Allocation Plan” or “QAP” means the 2025 State of Oregon Qualified Allocation Plan for Low Income Housing Tax Credits, dated February 25, 2025, as described in IRC Section 42(m)(B). The QAP may be accessed online at OHCS’ website.
(17) “Qualified basis” means the amount of eligible basis that will be used to generate low-income housing tax credits and is based upon the proportion of the property that will be used for affordable housing. The qualified basis is equal to

the eligible basis, multiplied by the applicable fraction.
(18) “Reservation and extended use agreement” or “REUA” is a contract between OHCS and the project owner whereby the project owner agrees, among other things, to provide and maintain the project and to guarantee its compliance with the requirements of IRC Section 42 and OHCS by executing and recording a Declaration of Land Use Restrictive Covenants on the project property in return for an allocation of LIHTCs in accordance with IRC Section 42(h)(6). It will also include, by reference, a carryover allocation agreement.
(19) Suballocation is an agreement between OHCS to whom current state’s private activity bond volume limit (CAP) allocations have been made to choose to suballocate any amount of the agency’s allocation to another issue provide that the allocation is used for the same category of project for which the initial request was made, and the suballocation complies. All suballocations expire December 15th of any given calendar year.

STATUTORY/OTHER AUTHORITY: ORS 183, 456.515 - 456.720

STATUTES/OTHER IMPLEMENTED: ORS 456.559(1)(f), 26 U.S.C. § 42

AMEND: 813-090-0015

RULE TITLE: Qualified Allocation Plan; Allocation of Credit Authority

RULE SUMMARY: Updating division 90 rules to reflect to 2025 Qualified Allocation Plan.

RULE TEXT:

(1) The 2025 Qualified Allocation Plan (referred to hereafter as QAP) with the requirements and standards therein, dated February 25, 2025, is incorporated into and adopted as part of this division of administrative rules, by reference.

(2) The 2025 QAP may be accessed online at OHCS' website.

(3) OHCS, as the authorized state housing credit agency, develops and maintains a Qualified Allocation Plan for the allocation of both, or 4%, and, or 9%, LIHTC.

(4) OHCS may, to the extent of its credit authority, allocate LIHTCs pursuant to the current QAP approved by executive order and then in effect.

(5) OHCS will allocate the LIHTCs in compliance with the program requirements. Applications will be solicited during specified periods within OHCS' Oregon Centralized Application "ORCA" process. OHCS can also select from a pool of qualified applicants, or such other process as OHCS deems appropriate.

(6) OHCS shall maintain a record of allocations and the balance of credit authority remaining for each calendar year.

STATUTORY/OTHER AUTHORITY: ORS 456.515-456.720

STATUTES/OTHER IMPLEMENTED: ORS 456.508, 456.510, 456.513, 456.722, 26 U.S.C. § 42

AMEND: 813-090-0040

RULE TITLE: Qualified Basis Limited by Application

RULE SUMMARY: Updating division 90 rules to reflect to 2025 Qualified Allocation Plan.

RULE TEXT:

The qualified basis established for the project at the time the LIHTCs are allocated cannot be increased without the applicant submitting another application for an additional LIHTC allocation in accordance with OAR 813-090-0031 and OHCS's ORCA process and procedures.

STATUTORY/OTHER AUTHORITY: ORS 456.555

STATUTES/OTHER IMPLEMENTED: ORS 456.508, 456.510, 456.513, 456.559, 456.605, 456.625, 456.722, 26 U.S.C. § 42