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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOA 3-2025

CHAPTER 603

DEPARTMENT OF AGRICULTURE

FILED

01/17/2025 2:50 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Establishes temporary rules for the Oregon Agricultural Workforce Housing Grant program administration.

EFFECTIVE DATE: 01/17/2025 THROUGH 07/15/2025

AGENCY APPROVED DATE: 01/17/2025

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NEED FOR THE RULE(S):

The rules are necessary to establish clear guidelines for administering the Agricultural Workforce Housing Grant program. They ensure the program aligns with statutory requirements and regulatory requirements adopted by OR-OSHA, define eligibility criteria, and provide transparency in the allocation and use of funds. The rules also promote accountability and equitable distribution of grant resources.

JUSTIFICATION OF TEMPORARY FILING:

(1) Specific Consequences of Failure to Immediately Adopt the Rule(s):

Failure to immediately adopt these rules would delay the implementation of the Agricultural Workforce Housing Grant program, preventing the timely distribution of funds needed to improve the health and safety conditions of agricultural workforce housing. OR-OSHA has adopted agricultural workforce housing rules and the Oregon Department of Agriculture (ODA) needs to put rules in place that align with those adopted by OR-OSHA. Without the rules in place, ODA cannot fund grants that are only available through the end of the biennium, leaving people without access to financial assistance and possibly delaying housing improvements.

(2) Who Would Suffer These Consequences:

The primary parties affected would be agricultural employers and workers who rely on the program to improve housing conditions. Additionally, ODA would face delays in fulfilling its statutory responsibilities, and the agricultural community at large would miss out on essential funding to address workforce housing needs.

(3) Why or How Failure to Immediately Take Rulemaking Action Would Cause These Consequences:

Without the adoption of these rules, there would be ambiguity around eligibility, program requirements, and funding distribution, which could result in confusion, noncompliance, or missed opportunities for stakeholders. Delaying the rules would prevent the program from launching and would halt the allocation of funds at a critical time.

(4) How the Temporary Action Will Avoid or Mitigate Those Consequences:

Following a temporary rulemaking, ODA can begin the grant application process and distribute funds while still

accounting for the OR-OSHA rules. This temporary action allows the program to move forward and start addressing the need for funding. This approach ensures that stakeholders do not face unnecessary delays in accessing funding.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- HB 2001, 2023 Oregon Legislature:

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2001>

- OR- OSHA Rules: OAR Chapter 437, Division 4
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RULES:

603-007-0011, 603-007-0021, 603-007-0031, 603-007-0041, 603-007-0051, 603-007-0061, 603-007-0071

ADOPT: 603-007-0011

RULE SUMMARY: Establishes the purpose of the Agriculture Workforce Housing Grant Program.

CHANGES TO RULE:

603-007-0011

Purpose

These rules establish the application process and criteria for the allocation, prioritization, and administration of grants under the Agricultural Workforce Housing Grant Program. This program will provide financial assistance to improve the health and safety conditions of existing agriculture workforce housing, as defined in ORS 315.163, for agricultural workers and their families.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)

ADOPT: 603-007-0021

RULE SUMMARY: Establishes definitions for agriculture workforce housing grant.

CHANGES TO RULE:

603-007-0021

Definitions

(1) "Agriculture workforce housing" means a registered Agricultural Labor Housing and Related Facility pursuant to OAR 437-004-1120.

(2) "Applicant" means a person who applies for a grant under the program.

(3) "Department" means the Oregon Department of Agriculture.

(4) "Grantee" refers to a person who has entered into a grant agreement with the Department.

(5) "H-2A Program" refers to the temporary agricultural worker program authorized under 8 U.S.C. § 1188.

(6) "OR-OSHA" means the Oregon Occupational Safety and Health Division.

(7) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

(8) "Site address" means the primary physical location of the agriculture workforce housing, as registered under OAR 437-004-1120, which may include multiple structures.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)

ADOPT: 603-007-0031

RULE SUMMARY: Establishes the eligibility requirements and application process.

CHANGES TO RULE:

603-007-0031

Eligibility Requirements and Application Process

To be eligible for the Agriculture Workforce Housing Grant, applicants must meet the following requirements.

(1) The agriculture workforce housing must:

(a) Comply with all occupational safety or health laws, rules, regulations and standards;

(b) Must be operated by a person who holds a valid indorsement as a farmworker camp operator under ORS 658.730, if an indorsement is required; and

(c) Must be registered as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750, if the housing is farm employment-related housing, on or before 90 days following the latter of:

(A) The first day of the first tax year after the grant was received; or

(B) The date the housing is first occupied.

(2) The applicant cannot provide agricultural workforce housing as a requirement for workers under the H-2A program or any other temporary employment visa program, nor may the applicant use the agricultural workforce housing to justify applications for any temporary visa program during the grant period.

(3) Submit a completed application.

(4) Propose a project that improves the health and safety conditions of existing agriculture workforce housing.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)

ADOPT: 603-007-0041

RULE SUMMARY: Establishes funding limitations.

CHANGES TO RULE:

603-007-0041

Funding Limitations

(1) Only one grant per site address will be awarded.

(2) The maximum grant amount available per site address is \$200,000 or the estimated budget, whichever is less. If demand for grant funds exceeds available funding, the Department may fund any grant at less than the maximum available amount.

(3) The Department shall distribute grant funds on a graduated and additive scale based on registered occupancy levels as follows, except that the Department may distribute a grant for less than the graduated and additive scale if demand for grant funds exceeds available funding:

(a) A baseline amount of \$10,000 per site address;

(b) For the first 1 to 5 occupants: \$2,000 per occupant;

(c) For the 6th to 10th occupants: \$1,000 per occupant; and

(d) For the 11th occupant and beyond: \$500 per occupant.

(4) Funds must be expended on or prior to January 1, 2026.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)

ADOPT: 603-007-0051

RULE SUMMARY: Establishes standards to determine project eligibility.

CHANGES TO RULE:

603-007-0051

Standards to Determine Project Eligibility

(1) The Department will review applications to determine if the proposed project will improve the health and safety conditions of existing agriculture workforce housing in consultation with OR-OSHA.¶

(2) The Department will give priority to applications in which the proposed projects outline steps to address compliance requirements contained in OAR 437-004-1120.¶

(3) Grant funds may not be used for:¶

(a) Construction of new housing units;¶

(b) Routine operational or maintenance expenses;¶

(c) Purchase of land or existing properties;¶

(d) Costs incurred before October 1, 2024;¶

(e) Equipment unless it is directly required to meet OR-OSHA health and safety standards for agricultural workforce housing.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)

ADOPT: 603-007-0061

RULE SUMMARY: Establishes review and approval process.

CHANGES TO RULE:

603-007-0061

Review and Approval

(1) The Department will review applications to ensure they are complete and meet the requirements in OAR 603-007-0031. The Department may request additional information.¶

(2) After review, the Department will approve those applications that meet eligibility requirements based on funding limitations in OAR 603-007-0041.¶

(3) The Department may conduct additional rounds of open application periods, if necessary, based on funding availability.¶

(4) After reviewing the applications, the Department may award remaining available funds to all grantees through a grant amendment.¶

(a) The Department will award remaining available funds no later than June 27, 2025, at a proportionate rate not to exceed a grantee's total project costs, notwithstanding payment limitations under OAR 603-007-0041.¶

(b) The Department may give additional consideration to projects that meet requirements under one or more of the following categories:¶

(A) Air quality and temperature control;¶

(B) Water systems, including those serving cooking and bathroom facilities; and¶

(C) Electrical infrastructure.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)

ADOPT: 603-007-0071

RULE SUMMARY: Establishes Grant Administration process.

CHANGES TO RULE:

603-007-0071

Grant Administration

(1) The Department and the Grantee shall sign a grant agreement that incorporates the full application, the portion of the proposed project funded, and outlines administration of the grant.¶

(2) Seventy-five percent of the grant shall be disbursed upon execution of the grant agreement and the remaining 25 percent shall be disbursed upon project completion and submission of a final report that contains documentation sufficient summarizes the completed work and allows the Department to verify that the work has been completed and funds expended towards authorized expenditures, including a description of project activities completed and in process and must include an itemized list of expenditures by category and supporting financial records. ¶

(a) a written summary of the project documenting evidence of meeting project description.¶

(b) a comprehensive list of all expenditures with receipts or supporting documentation, and if appropriate, a summary of any funds that were unspent.¶

(c)documentation of improvements includes before-and-after photos or completed building code permits or inspection reports, when applicable.¶

(3) In the event the final report is insufficient, the Department will withhold final payment pending resolution of identified deficiencies.¶

(4) If the Department determines that the Grantee does not meet grant agreements, the Department shall require repayment of any disbursed funds. If the Department cannot verify that any disbursed funds were used towards authorized expenditures, the Department may require repayment of disbursed funds.¶

(5) Grantees shall maintain project records for a minimum of three years after project completion and shall make the records available to the Department upon request.¶

(6) Grantee agrees to allow the Department to inspect the housing described in the proposed project in order to prevent or determine fraud, waste, or abuse in this grant program. Grantee agrees to provide all documents or information that Department reasonably requests in order to prevent or determine fraud, waste, or abuse in this grant program.¶

(7) Entering into a grant agreement does not constitute compliance with OR-OSHA regulations and does not exempt the Grantee from OR-OSHA inspections, enforcement, or penalties.¶

(8) Unexpended grant funds not used by the Grantee for authorized expenditures shall be returned to the Department for reallocation in accordance with the terms of the grant agreement.

Statutory/Other Authority: HB 2001 (2023)

Statutes/Other Implemented: HB 2001 (2023)