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**DIVISION 1**

**PROCEDURAL RULES**

**646-001-0000**

**Procedure for Notice of Intended Rulemaking**

Before adopting, amending, or repealing any permanent rule, the Oregon Salmon Commission will give notice of the intended action:

(1) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the effective date of the rule;

(2) By mailing a copy of the notice to persons on the Oregon Salmon Commission's mailing list, established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(4) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) Associations with an interest in Commission's rulemaking and publications whose readers have an interest in Commission's activities; and

(c) Newspapers in primary production regions of the commodities represented by the commission.

Stat. Auth.: ORS 183.335(1)(b) & 576

Stats. Implemented: ORS 183.341(4)

Hist.: OSC 3-1984, f. & ef. 7-26-84; OSC 1-1995, f. & cert. ef. 8-29-95; OSC 1-2001, f. & cert. ef. 8-17-01

**DIVISION 10**

**REPORTING AND PAYMENT OF ASSESSMENTS  
DUE THE OREGON SALMON COMMISSION**

**646-010-0005**

**Definitions**

(1) "Person" means any individual, corporation, association, partnership, or joint stock company.

(2) "Commission" means the Oregon Salmon Commission.

(3) "First Purchaser" means any person who buys ocean troll salmon landed in Oregon from the fisherman in the first instance, or handler who receives ocean troll salmon in the first instance from the fisherman for resale or processing.

(4) "Fisherman" means any individual participating directly or indirectly in the commercial harvest of troll caught ocean salmon for consumer consumption.

(5) "Handler" means any fisherman, processor, distributor, or other person engaged in handling or marketing of or dealing in troll caught ocean salmon, whether as owner, agent, employe, broker or otherwise.

(6) "Salmon" means all anadromous species of salmon, including but not limited to:

(a) *Oncorhynchus gorbuscha*, commonly known as humpback, humpies or pink salmon;

(b) *Oncorhynchus keta*, commonly known as chum or dog salmon;

(c) *Oncorhynchus kisutch*, commonly known as coho or silver salmon;

(d) *Oncorhynchus nerka*, commonly known as sockeye, red or blue back salmon;

(e) *Oncorhynchus tshawytscha*, commonly known as chinook salmon.

(7) "Casual Sale" means any casual sale or sales of troll caught ocean salmon made by the fisherman direct to the consumer where the total accumulated sales during a calendar year is not more than 100 pounds.

Stat. Auth: ORS. 576

Stats. Implemented:

Hist.: OSC 2-1984, f. & ef. 6-20-84 ; OSC 1-2001, f. & cert. ef. 8-17-01

**646-010-0010**

**Assessments**

Any person who is a first purchaser as defined in ORS Chapter 576, shall deduct and withhold an assessment at the rate of one and one-half percent of the ex-vessel value of the raw product of salmon. This assessment deduction shall be made upon the incoming revenue thereof, for salmon taken by troll fishing and delivered in Oregon. All casual sales of troll caught ocean salmon shall be exempt from the assessment. (See definition of "Casual Sales")

Stat. Auth: ORS 576

Stats. Implemented:

Hist.: OSC 2-1984, f. & ef. 6-20-84; OSC 2-1987, f. 4-6-87, ef. 5-1-87; OSC 1-1990, f. 3-29-90, cert. ef. 5-1-90; OSC 1-2001, f. & cert. ef. 8-17-01

**646-010-0015**

**Report and Payment of Assessment Moneys**

(1) First purchasers and handlers must submit completed and signed assessment reports on commission approved forms. Assessment reports shall include all purchases by or deliveries to a first purchaser of troll caught ocean salmon in the previous month. Assessment reports are due in the commission office postmarked on or before the 20th day of each month.

**EXAMPLE:** Assessment reports for April 1–April 31 would be due in the commission office postmarked on or before May 20th.

(2) When a first purchaser or handler has completed, signed and forwarded a report covering his final purchase of troll caught ocean salmon for the year, he shall mark such report in large letters **"FINAL REPORT FOR THIS YEAR."** No further reports are necessary by such first purchaser unless or until additional purchases are made. (See section (4) of this rule)

(3) If a first purchaser lives or has his office in another state or is a federal or other governmental agency, the fisherman shall report all sales made to such purchaser on forms provided by and pay the assessment moneys directly to the Commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to the Commission.

(4) At the time that reports are due the Commission from the first purchaser as required in section (1) of this rule, the first purchaser shall attach and forward payment to the Commission for the assessment due as set forth in each report. Reports shall be on forms prescribed by the Commission. The forms shall be signed by the first

purchaser and filled in with the required data as shown on such forms, including, but not limited to, the month in which the salmon was taken and delivered in Oregon, the gross poundage received from all fishermen, and the total assessment deducted and withheld.

(5) Any fisherman who performs the handling or processing functions on all or part of his production of the commodity, which normally would be performed by another person as the first purchaser thereof, shall report his sales of such commodity of his own production on forms provided by, and pay the assessment moneys directly to the Commission, unless the first purchaser from such producer voluntarily makes proper deduction and remits the proceeds to the commission.

Stat. Auth.: ORS 576

Stats. Implemented:

Hist.: OSC 2-1984, f. & ef. 6-20-84; OSC 1-2001, f. & cert. ef. 8-17-01

#### 646-010-0020

##### Penalties

Penalty for delaying transmittal of assessment moneys is provided in ORS 576.355, which states, "In addition to the penalties prescribed in 576.991, and any first purchaser or other person who delays transmittal of funds beyond the time set by the Commission shall pay ten percent of the amount due for the first month of delay and one and a half percent of the amount due for each month of delay thereafter."

Stat. Auth.: ORS 576.265

Stats. Implemented: ORS 576.355(1)

Hist.: OSC 2-1984, f. & ef. 6-20-84; OSC 1-2014, f. & cert. ef. 5-5-14

#### 646-010-0025

##### Effective Dates of Assessment

The assessment to be withheld and paid by a first purchaser or handler, as required by ORS 576.155 and OAR 646-010-0010(1), or the reports required under OAR 646-010-0015, applies to and covers any purchases by him or delivery on or after July 1, 1984, of troll caught ocean salmon landed in Oregon.

Stat. Auth.: ORS 576

Stats. Implemented:

Hist.: OSC 2-1984, f. & ef. 6-20-84

#### 646-010-0030

##### Exclusions from Assessments

###### EXEMPTION BASED ON DONATION TO NON-PROFIT.

Any first purchaser will deduct and withhold an assessment of the following amount for all of the salmon produced or procured in Oregon, except that no assessment will be deducted for salmon donated to a bona-fide non-profit organization providing dated proof of donation including quantity donated.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OSC 1-2004, f. 1-15-04 cert. ef. 1-16-04

## DIVISION 30

### COMMISSION MAKE-UP, TERMS, QUALIFICATIONS, TERM LIMITS, REMOVAL FROM OFFICE

#### 646-030-0010

##### Number of Commissioners, Terms

The Oregon Salmon Commission will consist of nine commissioners appointed by the Director of the Oregon Department of Agriculture for a term or four years or, if for a term following a prior term for that person, ending four years from the date of expiration of any prior term.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OSC 1-2004, f. 1-15-04 cert. ef. 1-16-04

#### 646-030-0020

##### Qualifications of Commissioners

(1) For purposes of this rule:

(a) A "producer" is a person growing or producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state,

a commodity for market, or receiving a share thereof as landowner, landlord, tenant, sharecropper, boat skipper or otherwise. A producer must have paid the commission assessment on the commodity in each of the preceding three calendar years.

(b) A "handler" is any producer, processor, distributor or other person engaged in handling or marketing of or dealing in the commodity, whether as owner, agent, employee, broker or otherwise. A handler must have collected the commission assessment, if any, each of the preceding three calendar years.

(2) Members of the Salmon Commission will have the following qualifications, which will continue during the term of office of the member:

(a) One member of the commission will be a member of the public with an active interest in the positive economic development, production and/or marketing of the commodity, but who is not associated with the production or handling of salmon;

(b) Six of the members will be producers;

(c) Two members will be handlers;

(3) In addition to the qualifications set forth in subsection (2) of this rule, at least one member(s) shall be from each of the following regions:

(a) Northern Oregon border to North of Cascade Head;

(b) Cascade Head to south of Florence;

(c) South of Florence to southern Oregon border.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576.225

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OSC 1-2004, f. 1-15-04 cert. ef. 1-16-04; OSC 2-2004, f. & cert. ef. 4-8-04; OSC 1-2014, f. & cert. ef. 5-5-14

#### 646-030-0030

##### Removal of Commissioners

(1) The Director of the Department of Agriculture may remove a commissioner from office, and declare the position vacant for cause, including the following reason: Two unexcused absences, or other neglect of duty in office;

(2) The Commission may make a recommendation to the Director of the Department of Agriculture, or the Director may request a recommendation from the Commission on the removal of any commissioner.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OSC 1-2004, f. 1-15-04 cert. ef. 1-16-04

#### 646-030-0040

##### Chair and Other Officers

Annually, at the last regular meeting of the Commission before the end of the fiscal year, the Commission will elect from its members a Chair, a Vice Chair, and a Secretary/Treasurer who will serve until their successors are elected and qualified. The Chair, Vice Chair, or Secretary/Treasurer may resign as such or may be removed from that position by vote of four Commissioners. If the Chair, Vice Chair, or Secretary/Treasurer ceases to be a Commissioner, the office will be vacant and a successor will be selected at the next regular meeting of the Commission. The Chair will preside over all meetings of the Commission. The Vice Chair or Secretary/Treasurer will act in lieu of the Chair when the Chair is unable to perform the duties of the office of Chair or while the office is vacant.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OSC 1-2004, f. 1-15-04 cert. ef. 1-16-04

## DIVISION 40

### COMMISSIONER PER DIEM AND REIMBURSEMENTS

#### 646-040-0000

##### Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Salmon Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is \$100 per day.

(3) In order to receive compensation, a member must submit to the Oregon Salmon Commission a written claim for compensation by the 15th day of the calendar month following the quarter for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206, 574.416 & 576.304

Stats. Implemented: ORS 292.495, 576.206(7) & 576.265

Hist.: OSC 1-2008, f. & cert. ef. 1-23-08; OSC 1-2011, f. & cert. ef. 5-31-11; OSC 1-2014, f. & cert. ef. 5-5-14

#### 646-040-0010

##### Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Salmon Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Salmon Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar quarter following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

- (a) Date on which the member incurred the expense; and
- (b) Nature of the expense; and
- (c) Amount of the expense.

(3) An expense that exceeds \$100.00 must be authorized by the Oregon Salmon Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

- (a) Meals.
- (b) Overnight lodging.
- (c) Transportation.
- (d) Postage.
- (e) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.

(b) In-room movie rental.

(c) Snacks and beverages offered for sale by a place of lodging.

(d) Long distance telephone charges at a place of lodging that are not related to Oregon Salmon Commission business.

(e) Use of a gym or health club.

(f) Cost of a gift for a host, business associate, commission member or employee, or family member.

(g) Alcoholic beverages.

Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416 & 576.440

Stats. Implemented: ORS 292.495, ORS 576.206(7), ORS 576.265

Hist.: OSC 1-2008, f. & cert. ef. 1-23-08

#### 646-040-0020

##### Reimbursement for Hiring a Substitute

(1) As used in OAR 972-040-0010, "other expenses" includes expenses incurred by a member of the Oregon Salmon Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed \$25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 292.495

Stats. Implemented: ORS 292.495, ORS 576.206(7)

Hist.: OSC 1-2008, f. & cert. ef. 1-23-08

