250-019-0065 Cooperation between Oregon State Marine Board and Oregon Department of Aviation Related to Regulation of Seaplanes Operating as Boats

(1) As defined in ORS 830.005(2) & (4), “boat” means every description of watercraft, including a seaplane on the water and not in flight; and “in flight” means from the moment a seaplane starts its takeoff run until the end of a normal power-off landing run.

(2) Pursuant to ORS 830.110(19), the Oregon State Marine Board (Marine Board) has authority to regulate boats that are seaplanes on the water and not in flight “in cooperation” with the State Aviation Board.

(3) Cooperation between the Marine Board and Aviation Board under ORS 830.110(19) is established as follows:

(a) As provided in ORS 183.335, the Marine Board shall notify the Aviation Board as an “interested person” of its intention to initiate rulemaking that may impact seaplanes on the water and not in flight on specified water bodies.

(b) The Director of the Department of Aviation may submit a written objection regarding the proposed rule or rule change to the State Marine Director during the designated public comment period.

(c) If no written objection from the Aviation Director is received during the public comment period, the Aviation Board is considered to have acquiesced in the proposed rule or rule change, and the Marine Board and the Aviation Board are deemed to have acted ”in cooperation” with each other on a mutually acceptable rule or rule change regarding seaplanes on the water and not in flight.

(d) If the Marine Board Director receives a written objection from the Aviation Director under subsection (3)(b), the two Directors, Boards, or subcommittees of both Boards, shall endeavor to resolve any conflict between the two Boards regarding the proposed rule or rule change.

(e) If an objection is submitted under subsection (3)(b) of this section, and the Marine Board and the Aviation Board are unable through the cooperative process described in subsection (3)(d) to resolve a policy conflict between them regarding regulation of sea planes on the water and not in flight, the Governor’s office may resolve the policy conflict between the two Boards on its own initiative or upon referral by either Board or Director. In that circumstance, as the constitutional chief executive officer of the state, the Governor or his designee shall determine the state’s policy for regulation of sea planes on the water and not in flight with respect to the waterbodies under consideration by the two Boards.

(4) The Marine Board and Aviation Board are deemed to have acted “in cooperation” with each other when any of the cooperative processes set forth in this section are initiated following notice of a proposed rule or rule change, regardless of whether agreement between the two Boards is ultimately reached on the proposed rule or rule change.

(5) This section is not intended to abrogate the Marine Board’s authority to adopt administrative rules as provided in ORS 830.110.