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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PH 51-2020
CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED
05/12/2020 5:12 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting rules related to lead-based paint certification in response to COVID-19 Executive Orders

EFFECTIVE DATE: 05/12/2020 THROUGH 11/07/2020

AGENCY APPROVED DATE: 05/12/2020

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NEED FOR THE RULE(S):

The Governor has declared an emergency due to the public health threat posed by the novel infectious coronavirus (COVID-19) and issued Executive Orders (EO) 20-07, prohibiting gatherings of 25 or more individuals, and EO 20-12, requiring individuals to stay home and requiring businesses to designate an employee or officer to establish, implement and enforce social distancing policies. The EOs have resulted in the cancellation of many in-person lead-based paint recertification trainings, and the inability for trained individuals to complete required lead-based paint activities exams in specified timeframes.

Renovation work on housing built before 1978 requires a firm license from the Construction Contractors Board or certification from the Oregon Health Authority. In order to maintain this license or certification, individuals employed by the firm must attend a refresher training at least once every 5 years. If the individual is not able to take a recertification training within that 5-year timeframe, their state certification will lapse. The firm certification is dependent on having certified individuals. The Governor's Orders have resulted in the cancelling of many refresher trainings required to maintain certification.

Lead-based Paint Activities include professionals that inspect, test, abate or assess risk of lead-based paint hazards in a home. These individuals must attend refresher trainings every three years in order to maintain their certification. Firm certification is dependent on having certified individuals. Individuals are required to pass a state exam within 6 months of completing their initial training.

The Governor's Executive Orders 20-07 and 20-12 to address COVID-19 have significantly decreased the number of recertification trainings being offered in Oregon. These temporary rules will extend certification expiration dates and expand the testing window to allow lead-based paint professionals to operate legally until November 7, 2020 or two months after the Governor's Order is lifted, whichever is earlier.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and to individuals that are certified to perform Renovation, Repair and Painting and Lead-based Paint Activities. These rules need to be adopted promptly so that certified individuals who work on specific housing that may contain lead-based paint can continue to do so legally. An extension of their current certification or an extension of the amount of time an individual has to complete an exam will prevent the expiration of certifications and the need to re-take initial trainings.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Governor's Executive Orders 20-07 and 20-12.

http://govsite-assets.s3.amazonaws.com/orgov/eo_20-07.pdf

https://govsite-assets.s3.amazonaws.com/jkAULYKcSh6DoDF8wBM0_EO%2020-12.pdf

RULES:

333-069-3000, 333-070-3000

ADOPT: 333-069-3000

RULE TITLE: Lead-Based Paint Activities Certification Extension in Response to COVID-19

RULE SUMMARY: Adopt OAR 333-069-3000: Extends Lead-Based Paint Activities certification expiration dates and state exam requirements beyond the Governor's declared state of emergency for COVID-19.

RULE TEXT:

- (1) For individuals including inspectors, risk assessors, workers, supervisors and project designers, a certificate that expires during the Governor's declared state of emergency for COVID-19 continues to be valid two months after the declared emergency is terminated or until November 7, 2020, whichever is earlier.
- (2) A lead-based paint activities firm certificate that expires during the Governor's declared state of emergency for COVID-19 continues to be valid two months after the declared emergency is terminated or until November 7, 2020, whichever is earlier.
- (3) 40 CFR 745.226(b)(7), requiring applicants to retake initial training if they fail to pass examination within six months of receiving a course completion certificate, is waived until November 7, 2020 for individuals who received a course completion certification for lead-based paint activities initial training after August 31, 2019. An individual who takes the certification exam under this rule:
 - (a) May not take the certification exam more than three times after receiving a course completion certificate; and
 - (b) Must retake the appropriate course from an accredited training program before reapplying for certification if the individual does not pass after taking the examination three times.

STATUTORY/OTHER AUTHORITY: ORS 431A.355

STATUTES/OTHER IMPLEMENTED: ORS 431A.355, 431A.358

ADOPT: 333-070-3000

RULE TITLE: Renovation Certification Extension in Response to COVID-19

RULE SUMMARY: Adopt OAR 333-070-3000: Extends Renovation, Repair and Painting certification and training expiration dates beyond the Governor's declared state of emergency for COVID-19.

RULE TEXT:

(1) A renovator training certificate that expires during the Governor's declared state of emergency for COVID-19 continues to be valid two months after the declared emergency is terminated or until November 7, 2020, whichever is earlier.

(2) A renovation firm certificate that expires during the Governor's declared state of emergency for COVID-19 continues to be valid two months after the declared emergency is terminated or until November 7, 2020, whichever is earlier.

STATUTORY/OTHER AUTHORITY: ORS 431A.355

STATUTES/OTHER IMPLEMENTED: ORS 431A.355, 431A.358