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ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 695
OREGON WATERSHED ENHANCEMENT BOARD

FILED

11/20/2024 12:42 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: OWEB Engagement and Monitoring Grants Rules- Minor Updates

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/03/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Eric Hartstein
503-910-6201
eric.hartstein@oweb.oregon.gov

775 Summer St. NE #360
Salem, OR 97301

Filed By:
Eric Hartstein
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 12/16/2024

TIME: 9:00 AM

OFFICER: Eric Hartstein

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 209797022

NEED FOR THE RULE(S)

These rules guide the administration of two OWEB grant programs.

OWEB's Engagement grants provide support for grantees to communicate and engage with landowners, organizations, and communities about the need for, feasibility of, and benefits of a specific eligible restoration, acquisition, or resource assessment/planning project within an identified geography, in order to successfully plan or implement the project.

OWEB's Monitoring grants provide funding for monitoring activities necessary for carrying out projects that either protect or restore native fish or wildlife habitats or protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

The October 2024 OWEB Board meeting staff report which requested board authorization to initiate rulemaking for both Engagement and Monitoring grants is located here: <https://www.oregon.gov/oweb/Documents/2024-Oct-ItemO-Initiate-Rulemaking-Engagement-Monitoring.pdf>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rules are not expected to affect racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The proposed amendments are providing language updates to OWEB's Engagement and Monitoring Grant administrative rules and aligning the technical review procedure for Monitoring Grants with the current process. The proposed rule revisions are not expected to have a fiscal and economic impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1) It is not expected that there will be a cost of compliance to state agencies, units of local government, and members of the public as the proposed administrative rule revisions are updates to a voluntary grant program.

2) a) Small businesses as defined by ORS 183.310(10) do not include eligible applicants for OWEB grants. OWEB grantees may contract with small businesses to implement activities and work within the scope of the grant agreement, but the proposed rule revisions do not dictate any element of that contractual relationship. b) The proposed rule amendments do not involve reporting, record keeping, and administrative activities. Furthermore, any reporting, record keeping and administrative activities required by the existing rules are principally borne by program grantees that are voluntarily entering the program and are not defined as small businesses. c) Similar to section b, program grantees are not defined as small businesses, and the proposed rule amendments will not result in an increase in the cost of professional services, equipment, supplies, labor, and administration in order to comply with the proposed rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

As noted in "Cost of Compliance", the proposed revisions to OWEB's Engagement and Monitoring Grant program rules will not impact small businesses and these entities were not involved in the development of the rule amendments.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rule amendments provide technical updates that will not result in substantive changes to how the grants programs are currently being administered.

RULES PROPOSED:

695-015-0010, 695-015-0020, 695-015-0050, 695-015-0070, 695-015-0080, 695-015-0120, 695-025-0140, 695-025-0150, 695-025-0160

AMEND: 695-015-0010

RULE SUMMARY: Provides the purpose of the OWEB Engagement grant offering.

CHANGES TO RULE:

695-015-0010

Purpose ¶

The Board shall provide outreach grants, as funds are available, for ~~stakeholder e~~Engagement pProjects that are necessary for carrying out eligible restoration and acquisition projects, or programs that lead to development of

eligible projects, as required by ORS 541.956(4) and OR CONST Art. XV, §4b(2)(d).
Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.956

AMEND: 695-015-0020

RULE SUMMARY: Provides the definition of an OWEB Engagement Project.

CHANGES TO RULE:

695-015-0020

Definitions ¶

"~~Stakeholder~~ Engagement Project" means a project whose purpose is to communicate and engage with landowners, organizations, and the community about the need for, feasibility, and benefits of a specific eligible restoration or acquisition project or program that leads to development of eligible projects within an identified geography.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.956

AMEND: 695-015-0050

RULE SUMMARY: Described application requirements for OWEB Engagement grants.

CHANGES TO RULE:

695-015-0050

Application Requirements ¶¶

Applications must be submitted on the most current form prescribed by the Board. In accordance with Section 4(b)(2)(d) of Article XV of the Oregon Constitution and ORS 541.956(4), funds used for outreach activities are required to be necessary for carrying out eligible restoration or acquisition projects. These are described in OAR 695-010 and 695-045. ~~Stakeholder~~Engagement applications must include the following:¶¶

(1) The eligible project type, or program that leads to development of eligible project types, that the ~~Stakeholder~~Engagement ~~p~~Project intends to develop. Eligible project types include:¶¶

(a) Acquiring, from willing owners, interests in land or water that will protect or restore native fish or wildlife habitats;¶¶

(b) Projects to protect or restore native fish or wildlife habitat;¶¶

(c) Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or streamflow; or¶¶

(d) Resource assessment or planning for the above project types.¶¶

(2) A description of the direct connection the ~~Stakeholder~~Engagement ~~p~~Project has with future restoration or acquisition projects or programs.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.956

AMEND: 695-015-0070

RULE SUMMARY: Described the criteria on which applications to the Engagement Grant offering will be evaluated on.

CHANGES TO RULE:

695-015-0070

Evaluation Criteria ¶

~~Stakeholder~~ Engagement pProjects will be evaluated on:¶

- (1) The degree to which applicants engage with the appropriate ~~stakeholder~~audiences in the appropriate geography;¶
- (2) The likely effectiveness of multi-directional communication among the applicant and ~~stakeholder~~audiences;¶
- (3) The proposed evidence base linking the ~~stakeholder~~eEngagement pProject and the resulting restoration or acquisition projects, or program that leads to development of eligible project types;¶
- (4) The timeliness of the resulting restoration or acquisition projects, or program that leads to development of eligible project types;¶
- (5) Cost effectiveness;¶
- (6) The qualifications and experience of applicant; and¶
- (7) The expected outcomes of the resulting restoration or acquisition project with respect to protecting or restoring fish or wildlife habitat, watershed function, and water quality or quantity.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.956

AMEND: 695-015-0080

RULE SUMMARY: Describes the technical review process for applications submitted in the Engagement Grant offering.

CHANGES TO RULE:

695-015-0080

Technical Review Process ¶¶

(1) Prior to the technical review team meeting, the technical review team:¶¶

(a) Shall receive each application, past evaluations for projects resubmitted in the current grant cycle, and an evaluation sheet to complete for each application;¶¶

(b) Shall evaluate each application based on the information provided. During this process, team members are encouraged to contact the applicants, Board staff, or other agency staff to clarify information in the application or to get expert review.¶¶

(2) At the technical review team meeting, the team shall:¶¶

(a) Review and evaluate each project individually based on how well the proposed project meets the criteria in OAR 695-015-0070;¶¶

(b) Recommend the project as:¶¶

(A) Do fund;¶¶

(B) Do fund with conditions;¶¶

(C) Do not fund; or¶¶

(D) Defer to staff or the Board with an explanation, if there is a policy issue or budget issue that needs to be addressed by the Board prior to a funding decision; and¶¶

(c) Rank order all projects recommended for funding based on:¶¶

(A) How well the project meets the criteria established in OAR 695-0105-004070; and ~~695-010-0050~~;¶¶

(B) The certainty of success of the ~~stakeholder~~ Engagement ~~p~~Project, based on the organizational capacity of the applicant and the likelihood the project will meet its ~~stakeholder~~ engagement objectives;¶¶

(3) The project description, summary evaluation and funding recommendation for all projects, and the rank order of projects recommended for funding shall be forwarded from the regional review team to Board staff for their consideration. This information will be sent to all applicants within a region for their region and for all regions to the Board.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.956

AMEND: 695-015-0120

RULE SUMMARY: Provides the process for the OWEB Director to waive rules.

CHANGES TO RULE:

695-015-0120

Waiver and Periodic Review of Rules ¶

The Director may waive the requirements of Division 15 for individual grant applications unless required by statute, when doing so will result in more efficient or effective implementation of the Board's ~~stakeholder~~ engagement grant program. Any waiver must be in writing and included in the grant file to which the waiver applies.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.956

AMEND: 695-025-0140

RULE SUMMARY: Describes criteria through which monitoring applications will be evaluated on.

CHANGES TO RULE:

695-025-0140

Evaluation Criteria ¶¶

Monitoring grant applications will be evaluated on the following criteria and to the extent to which the proposed project clearly addresses:¶¶

- (1) The need, relevance, applicability, and timeliness of the proposed monitoring project to inform future planning, implementation or adaptive management of restoration or acquisition projects;¶¶
- (2) Monitoring or information needs related to limiting factors, habitat conditions, watershed processes or actions described in federal, tribal, regional, state, or local plans or assessments, or that would inform development of a federal, tribal, regional, state, or local plan or assessment;¶¶
- (3) Existing data, including historical data and indigenous knowledge, or current or planned monitoring efforts that this project will complement;¶¶
- (4) The monitoring questions and how the proposed monitoring methods and activities (including study design, data collection and management, and analysis procedures) will answer these questions;¶¶
- (5) Professionally accepted monitoring and analysis protocols, including quality assurance / quality control procedures to be utilized;¶¶
- (6) Proposed costs that are appropriate for the work necessary to accomplish the objectives;¶¶
- (7) The organizational capacity of the applicant as it relates to past experience and successful implementation of monitoring projects, relative to the proposed monitoring activities;¶¶
- (8) The qualifications, ability, and performance history of the technical staff of the applicant, consultants to be retained, or project partners to apply appropriate monitoring approaches and the proposed data collection and analysis methods in a manner that will successfully complete the monitoring activities;¶¶
- (9) How the appropriate technical experts and ~~community stakeholders~~ audiences in the community are engaged; and¶¶
- (10) The process by which data and results will be stored, reported, and made publicly available.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.890 - 541.969

AMEND: 695-025-0150

RULE SUMMARY: Describes the technical review process for monitoring grant applications.

CHANGES TO RULE:

695-025-0150

Technical Review Process

(1) For monitoring grant applications seeking grant funds that require the Board to make a funding decision:¶

(a) A statewide team with monitoring expertise from natural resource agencies will be convened to review monitoring grant applications using the following process:¶

(A) Prior to meeting, the statewide team shall receive each application, past evaluations for resubmitted projects and an evaluation sheet that references criteria as described in OAR 695-025-0140 to complete for each application; and¶

(B) The statewide team will evaluate each application individually based on the information provided and in accordance with criteria in OAR 695-025-0140.¶

~~(bC) At technical review team will be convened to review monitoring grant applications.¶~~

~~(c) Prior to the technical review team meeting, the technical review team shall receive each application, past evaluations for resubmitted projects, the feedback from the statewide team and an evaluation sheet that references criteria as described in OAR 695-025-0140 to complete for each application;¶~~

~~(d) At the technical review team meeting, the technical review team shall:¶~~

~~(A) Review and evaluate each application individually based on the statewide team's feedback and how well the proposed project meets the criteria in OAR 695-025-0140;¶~~
~~he statewide team meeting, the statewide team shall:¶~~

~~(i) Recommend fund;¶~~

~~(B)ii) Recommend each project as:¶~~

~~(i) Fund;¶~~

~~(ii) Fund with conditions;¶~~

~~(iii) Do not recommend funding; or¶~~

~~(iv) Defer to staff or the Board with an explanation if there is a policy issue or budget issue that needs to be addressed by the Board prior to a funding decision; and¶~~

~~(C)D) Rank order of projects recommended for funding based on how well the project meet the criteria established in OAR 695-025-0140.¶~~

~~(e) The project description, summary evaluation and funding recommendation for all projects, and the rank order of projects recommended for funding shall be provided from the technical review statewide team to staff for their consideration. This information will be provided to all applicants and to the Board.¶~~

(2) For monitoring grant applications seeking grant funds that have been delegated to the Director:¶

(a) A statewide team with monitoring expertise from natural resource agencies may be convened to review monitoring grant applications using the following process: ¶

(A) Prior to meeting, the statewide team shall receive each application, past evaluations for resubmitted projects, and an evaluation sheet that references criteria as described in OAR 695-025-0140 to complete for each application; and ¶

(B) The statewide team will evaluate each application individually based on the information provided and in accordance with criteria in OAR 695-025-0140.¶

(b) A technical review team will be convened to review monitoring grant applications and evaluate each application individually based on any statewide team feedback and how well the proposed project meets the criteria in OAR 695-025-0140; this information will be provided to the applicants and the Director.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.890-541.969

AMEND: 695-025-0160

RULE SUMMARY: Describes the staff funding recommendation process for monitoring applications.

CHANGES TO RULE:

695-025-0160

Staff Funding Recommendation Process

(1) For monitoring grant applications seeking grant funds that require the Board to make a funding decision:¶

(a) Staff shall review the recommendations from ~~each technical review~~ the statewide team and make a statewide funding recommendation to the Board based on available resources for the grant offering and type. The recommendation shall include any suggested conditions placed on individual projects and may include proposed budget adjustments. The staff recommendation, as represented in the staff report to the Board, shall be sent to applicants and members of the ~~technical review~~ statewide teams at least two weeks before the Board meeting where funding decisions are to be made.¶

(b) Applicants may provide written comment to the Board on the staff recommendation prior to the Board decision or oral comment to the Board during the meeting at which the Board decision will be made.¶

(2) For monitoring grant applications seeking grant funds that have been delegated to the Director, staff shall review the recommendations from each technical review team and make a funding recommendation to the Director based on available resources for the grant offering and type. The recommendation shall include any conditions placed on individual projects and may include proposed budget adjustments. The staff recommendation shall be provided to the applicants.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.890-541.969