



Oregon

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Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Phillip C. Ward, Director

SUBJECT: Agenda Item H, May 30, 2008
Water Resources Commission Meeting

Request for Adoption of Rules Necessary to Administer the Planning Studies Grant Program Established under Senate Bill 1069 (Chapter 13, 2008 Laws), OAR Chapter 690, Division 600

I. Issue Statement

The Commission is asked to adopt rules relating to Department administration of a grant program established under Senate Bill 1069 (Chapter 13, 2008 Laws) to pay the qualifying costs of planning studies performed to evaluate the feasibility of developing a water conservation, reuse or storage project. The proposed rules incorporate provisions required under SB 1069 and provide procedures and requirements for the administration of grants from the initial application to final completion of the project planning study. In addition, the proposed rules establish an administrative process designed to bring staff recommendations for grant funding before the Commission for final consideration and approval. The final proposed rules are provided in Attachment 1.

II. Background

Senate Bill 1069, enacted into law by the Oregon Legislature in 2008, became effective on March 5, 2008. SB 1069 directs the Oregon Water Resources Department (Department) to establish a grant program to pay the qualifying costs of planning studies performed to evaluate the feasibility of developing a water conservation, reuse or storage project.

SB 1069 also directs the Department to adopt rules necessary to administer the grant program and requires that these rules include provisions that: (1) establish reporting requirements for grants awarded under the Act, (2) provide for public comment before the award of grants and payment of direct services under the Act, and (3) implement the priorities required by the Act. This rulemaking action is intended to comply with these provisions. In addition to SB 1069, the 2008 Oregon Legislature passed Senate Bill 5556, in part, to appropriate \$1,750,000 to the Department for administration and funding of the SB 1069 project planning studies (see Attachment 2).

A rules advisory committee (RAC) was established and a meeting of the committee was facilitated by the Department on April 22, 2008. The RAC members that were invited to participate in the April 22 meeting are listed in Attachment 3. On May 1, 2008 notice of public rulemaking was published in the *Oregon Bulletin* and a hearing draft of the proposed rules was made available on the Department's website. The proposed rules were presented to the Ground Water Advisory Committee (GWAC) on May 2, 2008. In addition to the opportunity to provide written comment from May 1 – May 22, the public will have the opportunity to present written and oral comment on the proposed rules at a public rulemaking hearing conducted by the Department in Salem on May 22, 2008.

III. Discussion

The hearing draft of the proposed rules contained the following elements:

Purpose: A purpose statement states, "These rules guide the Oregon Water Resources Department in accepting applications and considering proposals for grant funding under the provisions of Chapter 13, 2008 Laws. The Water Conservation, Reuse, and Storage Grant Program includes grant funding for project planning studies performed to evaluate the feasibility of developing a water conservation, reuse, or storage project."

Definitions: Definitions for "Application Review Team," "Department," "Director," "Funding," "Grant Agreement," "Grantee," "Partner," "Program," and "Project Planning Study".

Application Requirements: Provisions related to applicant eligibility, required application information, and match requirements. Eligible applicants include local governments, Indian tribes, and persons. Required application information includes an estimated line item budget, SB 1069 priority status, and demonstration of a 50% match.

Application Process: Provisions related to procedures established by the Department to process, evaluate, and prioritize applications for the purpose of preparing recommendations for Commission consideration. As required by SB 1069, above-ground projects that include provisions for using stored water to augment instream flows will receive priority over those that do not. This requirement is expressed in the final proposed rules as a provision within the application process section.

Grant Agreement and Conditions: Provisions related to grantee requirements and grant agreement conditions, including interim and final reporting requirements.

Eligible Project Planning Studies: Language taken directly from provisions in SB 1069 related to eligible studies (SB 1069, Section 2. Eligible studies).

Public Notice and Comment: SB 1069 requires that the rules provide for public comment before the award of funding. Under the final proposed rules, the Department will provide the public a minimum of 30 days to submit written comments after the Department provides final notice of the complete list of applications for funding and associated application review team recommendations.

Distribution of Funds: Provisions related to disbursement and reimbursement of Program funding.

IV. Summary

Based on public comment taken through May 22, 2008, staff may modify the hearing draft of the rules issued May 1, 2008. Staff will bring any modifications to the May 30, 2008 Commission meeting for discussion.

The final proposed rules are consistent with the Oregon Legislature's intent as expressed in SB 1069 (Chapter 13, 2008 Laws) and with the Oregon Legislature's policy on water supply as declared in ORS 536.241, "...that it is the policy of the State of Oregon to ensure a water supply sufficient to meet the needs of existing and future beneficial uses of water, and to adequately manage the state's water resources."

V. Alternatives

The Commission may consider the following alternative actions:

1. Adopt the final proposed rules in Attachment 1.
2. Adopt modified final proposed rules.
3. Not adopt the proposed rules and request that the Department further evaluate the issues.

VI. Recommendation

The Director recommends that the Commission adopt the final proposed rules in Attachment 1.

Attachment:

1. The attached proposed rules are subject to public comment until May 22, 2008. Final proposed rules will be available at the May 30, 2008 meeting
2. Copy of SB 1069 (Chapter 13, 2008 Laws) and SB 5556.
3. Rules Advisory Committee membership list.

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