

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies\* are true, full and correct copies of the PERMANENT Rule(s) adopted on May 30, 2008 by the

<u>Oregon Water Resources Commission</u>	<u>OAR Chapter 690</u>	
Agency and Division	Administrative Rules Chapter Number	
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Rules Coordinator	Address	Telephone

to become effective June 6, 2008      Rulemaking Notice was published in the May 1, 2008 Oregon Bulletin.  
Date upon filing or later      Month and Year

**RULE CAPTION**

Administrative Rules implementing a planning studies grant program required under SB 1069 (Chapter 13, 2008 Laws)  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:** 690-600-0000; 690-600-0010; 690-600-0020; 690-600-0030; 690-600-0040; 690-600-0050; 690-600-0060;  
690-600-0070

**AMEND:**

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 536.027

Other Auth.:

Stats. Implemented: Chapter 13, 2008 Laws



RECEIVED

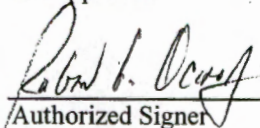
**RULE SUMMARY**

JUN 09 2008

WATER RESOURCES DEPT.  
SALEM, OREGON

The Water Resources Commission (Commission) adopted rules necessary to administer the grant program established under Senate Bill 1069 (Chapter 13, 2008 Laws). 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. In addition, SB 1069 directs the Commission to adopt rules necessary to administer the grant program.

The adopted 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 planning study. In addition, the adopted rules establish an administrative process designed to bring staff recommendations for grant funding before the Commission for final consideration and approval.

  
Authorized Signer

RUBEN E. OCHOA  
Printed name

6/4/2008  
Date

\*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. \*\*The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in the Oregon Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

**OREGON WATER RESOURCES DEPARTMENT**

**DIVISION 600**

**Water Conservation, Reuse and Storage Grant Program**

**690-600-0000**

**Purpose**

**These rules establish procedures for the Oregon Water Resources Department in accepting applications and considering proposals for funding under the provisions of Senate Bill 1069 (Chapter 13, 2008 Laws). The Water Conservation, Reuse, and Storage Grant Program includes funding for project planning studies performed to evaluate the feasibility of developing a water conservation, reuse, or storage project.**

**Stat. Auth.: ORS 536.027**

**Stats. Implemented: Chapter 13, 2008 Laws**

**Hist.:**

**690-600-0010**

**Definitions**

**The following definitions apply to this division of the rules:**

**(1) "Department" means the Oregon Water Resources Department.**

**(2) "Director" means the Director of the Oregon Water Resources Department.**

**(3) "Funding" means a grant or payment for direct services, including but not limited to technical planning services, available through the Program.**

**(4) "Grant Agreement" means the legally binding contract between the Department and the funding recipient. It consists of the conditions specified in these rules, the notice of funding award, special conditions to the grant agreement, a certification to comply with applicable state and federal regulations, the project planning study budget and the approved application for funding the project planning study.**

**(5) "Grantee" means a local government as defined in ORS 174.116, an Indian tribe as defined in ORS 391.802, or a person as defined in ORS 536.007, that is a recipient of funding from the Program.**

**(6) "Partner" means a non-governmental or governmental person or entity that has committed funding, expertise, materials, labor, or other assistance to a proposed project planning study.**

**(7) "Program" means the Water Conservation, Reuse, and Storage Grant Program.**

**(8) "Project Planning Study" means research and planning performed to evaluate the feasibility of developing a water conservation, reuse, or storage project.**

**Stat. Auth.: ORS**

**Stats. Implemented: ORS**

**Hist.:**

**690-600-0020**

**Application Requirements**

**(1) Funding is limited to a Grantee as defined in 690-600-0010 (5).**

**(2) Applications for funding may not exceed \$500,000 per project.**

**(3) For a project planning study to be considered for review and funding, an applicant must submit a complete application as determined by the Department and the project planning study must be eligible for funding under 690-600-0050.**

- (4) All applicants for funding shall supply the following information in their application:**
- (a) Names, mailing addresses, email addresses (if available), and fax and telephone numbers of the applicant contact person(s) and the fiscal officer(s);**
  - (b) Partner(s) name and address, if applicable;**
  - (c) Information required by the Department regarding the water conservation, reuse or storage project associated with the project planning study.**
  - (d) For a project planning study associated with an above ground storage project, information as to whether and to what extent the project includes provisions for using stored water to augment in-stream flows to conserve, maintain and enhance aquatic life, fish life or other ecological values.**
  - (e) For a project planning study that is not associated with an above ground storage project, information as to whether the project has been identified by the Department in a statewide water assessment and inventory.**
  - (f) For a project planning study that is associated with a proposed storage project that would impound surface water on a perennial stream, divert water from a stream that supports sensitive, threatened or endangered fish or divert more than 500 acre-feet of surface water annually, the proposed project planning study must contain the following elements:**
    - 1. Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected stream and the impact of the storage project on those flows;**
    - 2. Comparative analyses of alternative means of supplying water, including but not limited to the costs and benefits of conservation and efficiency alternatives and the extent to which long-term water supply needs may be met using those alternatives;**
    - 3. Analyses of environmental harm or impacts from the proposed storage project**
    - 4. Evaluation of the need for and feasibility of using stored water to augment in-stream flows to conserve, maintain and enhance aquatic life, fish life and any other ecological values, and**
    - 5. For a proposed storage project that is for municipal use, analysis of local and regional water demand and the proposed storage project's relationship to existing and planned water supply projects.**
  - (g) Estimated line item budget for the project planning study including the sources and amounts of match funding and the amount of funding requested from the Department. Administrative costs may not exceed 10% of the total funding requested from the Department.**
  - (h) A project planning study schedule including identification of specific project planning study elements for which funding will be used and the project planning study beginning and completion date; and**
  - (i) Any other information requested by the Department that is necessary to evaluate the application for funding based on evaluation criteria developed by the Department.**
- (5) An applicant must demonstrate that at least 50% match is being sought, on a form provided by the Department, based on the total funding request. Match may include:**
- (a) Associated and documented expenditures for the project planning study from non-Program sources incurred prior to program funding and approved by the Department for match purposes.**
  - (b) Secured funding commitments from other sources;**
  - (c) Pending commitments of funding from other sources. In such instances, Department funding will not be released prior to secured commitment of the funds from other sources. Pending commitments of the funding must be secured within 12 months from the date of the award; or**
  - (d) The value of in-kind labor, equipment rental and materials essential to the project planning study.**
  - (6) An application must be submitted on a form provided by the Department. An explanation must accompany the application if any of the information required in section (4) of this rule**

cannot be provided.

Stat. Auth.: ORS ....

Stats. Implemented: ORS .....

Hist.:

**690-600-0030**

**Application Process**

(1) Depending upon the availability of Program funds, the Department will periodically, but not less than annually, announce deadlines for submitting applications for funding.

(2) The Department may use an application review team consisting of persons with water supply and planning knowledge and interdisciplinary expertise appointed by the Director to review applications and make funding recommendations to the Department.

(3) In its evaluation of applications associated with above ground storage projects, the Department will give priority to applications associated with above ground storage projects that include provisions for using stored water to augment in-stream flows to conserve, maintain and enhance aquatic life, fish life or other ecological values.

(4) In its evaluation of applications that are not associated with above ground storage projects, the Department will give priority to applications associated with projects that are identified by the Department in a statewide water assessment and inventory.

Stat. Auth.: ORS

Stats. Implemented: ORS

Hist.:

**690-600-0040**

**Grant Agreement and Conditions**

(1) The Director or designee will establish grant agreement conditions for each grant. Grantees shall comply with all grant agreement conditions.

(2) The Department will only enter into new agreements or amendments to existing agreements with prior grantees of the Program if all reporting obligations under existing or earlier grant agreements have been met.

(3) The grantee must:

(a) Submit a quarterly report to the Department on a form provided by the Department that provides information regarding the expenditure of program and non-program funds, progress toward completion of the project planning study, compliance with special conditions and requirements in the Grant Agreement and any other information the Department deems appropriate.

(b) Comply with all federal, state and local laws and ordinances applicable to the work to be done under the grant agreement.

(c) Account for funds distributed by the Department, using project planning study expense forms provided by the Department.

(d) Obtain all permits and licenses from local, state or federal agencies or governing bodies necessary to fulfill the grant agreement and provide a copy to the Department.

(4) It is not the intent of the program to finance equipment purchases. Any equipment purchase authorized by the Department may be subject to additional conditions to be included in the grant agreement.

(5) Upon notice by the Department to the grantee in writing, the Director may terminate funding for project planning studies not complying with the grant agreement conditions. The money allocated to the project planning study but not used will be available for reallocation by the Department.

(6) The Grant Agreement will contain a condition that all project planning study reports that the Department determines to be final and complete will be made available to the public. The

Department may place additional conditions in the Grant Agreement as necessary to carry out the purpose of the project planning study. Such conditions may include but are not limited to:

- (a) Special reporting requirements that it deems appropriate.
- (b) A commitment to supply future reports on the project planning study as required; and
- (c) A commitment to provide a report of any future actions taken as a result of the project planning study.

Stat. Auth.: ORS

Stats. Implemented: ORS

Hist.:

690-600-0050

#### Eligible Project Planning Studies

(1) Project planning studies eligible for funding under the Program may include:

- (a) Analyses of hydrological refill capacity;
- (b) Water needs analyses;
- (c) Refined hydrological analyses;
- (d) Engineering and financial feasibility studies;
- (e) Geologic analyses;
- (f) Water exchange studies;
- (g) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected stream and the impact of a proposed water conservation, reuse or storage project on those flows;
- (h) Comparative analyses of alternative means of supplying water, including but not limited to the costs and benefits of conservation and efficiency alternatives and the extent to which long-term water supply needs may be met using those alternatives;
- (i) Analyses of environmental harm or impacts from a proposed water conservation, reuse or storage project;
- (j) Analyses of public benefits accruing from a proposed water conservation, reuse or storage project;
- (k) Fiscal analyses of a proposed water conservation, reuse or storage project, including estimated project costs, financing for the project and projected financial returns from the project;
- (l) Hydrological analyses of a proposed water conservation, reuse or storage project, including the anticipated effects of climate change on hydrological refill capacity; and
- (m) Analyses of potential water quality impacts of the project.

(2) If a planning study concerns a proposed storage project that would impound surface water on a perennial stream or divert water from a stream that supports sensitive, threatened or endangered fish or divert more than 500 acre-feet of surface water annually; grant funding may be provided only if the study contains:

- (a) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected stream and the impact of the storage project on those flows;
- (b) Comparative analyses of alternative means of supplying water, including but not limited to the costs and benefits of conservation and efficiency alternatives and the extent to which long-term water supply needs may be met using those alternatives;
- (c) Analyses of environmental harm or impacts from the proposed storage project;
- (d) Evaluation of the need for and feasibility of using stored water to augment in-stream flows to conserve, maintain and enhance aquatic life, fish life and any other ecological values; and
- (e) For a proposed storage project that is for municipal use, analysis of local and regional water demand and the proposed storage projects relationship to existing and planned water supply projects.

**Stat. Auth.: ORS**

**Stats. Implemented: ORS**

**Hist.:**

**690-600-0060**

**Public Notice and Comment**

- (1) The Department will post a summary of an application for Program funding within 10 days of a determination by the Department that the application is complete and meets the requirements of 690-600-0020.**
- (2) Prior to the award of funding for a project planning study, the Department will provide public notice of applications for Program funding and associated application review team recommendations. After public notice, the Department will provide a minimum of 30 days for submission of written comments.**

**690-600-0070**

**Distribution of Funds**

- (1) The Department will not reimburse the Grantee for any expenditure incurred prior to the signing of the grant agreement by all parties to the agreement.**
- (2) The Director may withhold payments to a Grantee when in a situation where there are significant and persistent difficulties with satisfying Department requirements.**
- (3) Prior to disbursement of Department funds, the Grantee must provide proof that is satisfactory to the Department that the match requirement of at least 50% of the funding from a source other than the Program has been secured.**
- (4) Funds shall not be disbursed until the Department receives satisfactory evidence that necessary permits and licenses have been granted and documents required by the Department have been submitted.**

**Stat. Auth.: ORS**

**Stats. Implemented: ORS**

**Hist.:**