

May 20-21, 2008 OWEB Board Meeting Executive Director Update #C2: Administrative Rulemaking

Background

In January, staff sought Board authorization to begin administrative rulemaking to address three areas of OWEB's administrative rules. At the time staff was uncertain whether all three areas would ultimately require rule language changes, but staff wanted the ability to pursue rulemaking that could be completed by May 2008, if needed. This staff report provides an update on developments since the March 2008 staff report.

Restoration Grant Eligibility

As reported in the March staff report, staff have concluded that the existing rule language provides enough flexibility to allow OWEB funds to be used in certain scenarios where leveraging other funding might be construed as being required for mitigation purposes or in compliance with a state or federal legal judgment. Staff will develop guidance to provide internal and external clarification about the rule and these scenarios.

Watershed Council Support Rules

At this time staff do not recommend proceeding with rulemaking to address the funding distribution criteria in watershed council support grants. After further discussion, staff believe that there is enough flexibility in the current rules to allow staff to change the formulas or award "bonuses" to better address funding needs and concerns. Staff plan to discuss this recommendation and options for distributing council support funding for the 2009-2011 biennium with the Council Support Subcommittee over the summer. Staff and the Subcommittee will report on the status of this discussion at the September 2008 meeting.

Grant Administration Rules

In January, staff identified a couple of areas where a policy discussion and re-visitation of the grant administration rules could benefit the program. After further discussion of the policy issues and rules, staff intend to pursue rulemaking on the following list of rule topics:

Rule Topic	Oregon Administrative Rule Number
Landowner Agreements	695-005-0060(4) and 695-005-0030(4)
Grant Amendments	695-005-0050(1)
Rule Waivers	695-005-0070/All divisions
Consistent use of Director and Board	All divisions
Consistent use of effectiveness and implementation monitoring terms	All divisions
Partnerships and Non-Competitive Grants	New rules (Division 4)

Staff will develop a set of proposed rules and rule amendments during the month of May, and plan to convene a rules advisory committee to provide feedback during June in preparation for a four week public comment period during July. Staff will then present a set of proposed administrative rules for Board consideration at the September 2008 meeting.

Staff Contact

If you have questions or need additional information, please contact Melissa Leoni, at melissa.leoni@state.or.us or 503-986-0179.