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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 695
OREGON WATERSHED ENHANCEMENT BOARD

FILED

04/27/2023 9:06 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Establishing Climate-Related Evaluation Criteria for OWEB Grant Programs.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/05/2023 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.

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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: 05/24/2023

TIME: 10:00 AM

OFFICER: Eric Hartstein

REMOTE MEETING DETAILS

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

PHONE NUMBER: 253-205-0468

SPECIAL INSTRUCTIONS:

Meeting ID: 853 9349 5878

Passcode: 686524

NEED FOR THE RULE(S)

Following adoption of a Climate Resolution, and a lengthy staff public engagement process on the resolution and how it would be integrated into OWEB's grant programs, the OWEB Board authorized rule making to fully implement the Climate Resolution into OWEB grant programs through the addition of climate-related evaluation criteria.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

The OWEB Board Climate Resolution is available at: <https://www.oregon.gov/oweb/Documents/OWEB-Climate-Resolution-01-2022.pdf>

The July 2022 OWEB Board meeting staff report, which includes a report on the public engagement process, is available at: <https://www.oregon.gov/oweb/Documents/2022-Jul-ItemG-Climate-Public-Engagement-Process.pdf>

The OWEB Board Water and Climate Committee was updated on developing draft climate-related evaluation criteria at their December and March 2023 meetings, materials for those meetings are located here:

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

Adoption of the rules would have a positive affect on racial equity in Oregon, as the proposed rules add an evaluation criterion to OWEB's grant programs related to how grant applicants are engaging local communities disproportionately impacted by climate change in the their proposed project. The definition for 'Local Communities Disproportionately Impacted by Climate Change' includes communities such as Native American tribes, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in public processes, including seniors, youth, and persons with disabilities.

FISCAL AND ECONOMIC IMPACT:

The proposed revisions to the OWEB Grant Program rules division will be used to evaluate grant applications submitted through OWEB's grant programs. OWEB offers grants to eligible entities engaged in the protection and restoration of local streams, rivers, wetlands, and natural areas. The proposed rule revisions are not expected to have a fiscal impact beyond the continued expenditure of grant funds in communities across Oregon.

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 rules are adding additional evaluation criteria for 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 reporting, record keeping, and administrative activities required by the 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, the cost of professional services, equipment, supplies, labor, and increased administration to comply with the rules will be borne principally by program grantees that are not defined as small businesses

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

As noted in "Cost of Compliance", the proposed OWEB Grant Program rules will not impact small businesses. However, representatives from the conservation community participated on the Rules Advisory Committee. These entities often contract with small businesses through the implementation of OWEB grants and would understand if any proposed administrative rule revisions would impact small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

NOTE: Additional PDF filed with this filing not included in this document. Please contact Oregon Watershed Enhancement Board for a copy of this document.

RULES PROPOSED:

695-005-0020, 695-005-0045

AMEND: 695-005-0020

RULE SUMMARY: New definitions for the climate-related evaluation criteria established in OAR 695-005-0045.

CHANGES TO RULE:

695-005-0020

Definitions ¶¶

- (1) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.900.¶¶
- (2) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.¶¶
- (3) "Grant Agreement" is the legally binding contract between the Board and the grant recipient. It consists of the conditions specified in these rules, the notice of grant award, special conditions to the agreement, a certification to comply with applicable state and federal regulations, the project budget, and the approved application for funding the project.¶¶
- (4) "Technical Review Team" is a team of designated persons with interdisciplinary expertise drawn from agencies represented on the Board and other entities to evaluate grant applications based on evaluation criteria.¶¶
- (5) "Partners" are non-governmental or governmental persons or entities that have committed funding, expertise, materials, labor, or other assistance to a proposed project.¶¶
- (6) "Match" is any contribution to a project that is non-Board funds. Match may include:¶¶
 - (a) Cash on hand or cash that is pledged to be on hand prior to commencement of the project;¶¶
 - (b) Secured funding commitments from other sources;¶¶
 - (c) Pending commitments of funding from other sources. In such instances, Board funding will not be released prior to secured commitment of the other funds; or¶¶
 - (d) The value of in-kind labor, equipment rental and materials essential to the project, based on local market rates.¶¶
- (7) "OWEB" means the Oregon Watershed Enhancement Board state agency.¶¶
- (8) "Carbon Sequestration" means the process of capturing and storing atmospheric carbon dioxide.¶¶
- (9) "Carbon Storage" means the storage of carbon in plants, soils, geological formations, and the ocean.¶¶
- (10) "Durable adaptation and resilience for ecosystems" means the extent to which a project is expected to help an ecosystem, including human communities, adjust to, respond to, or recover from the effects of a changing climate.¶¶
- (11) "Local Communities Disproportionately Impacted by Climate Change" includes communities such as Native American tribes, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in public processes, including seniors, youth, and persons with disabilities.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.890 - 541.969

ADOPT: 695-005-0045

RULE SUMMARY: This rule introduces climate-related evaluation criteria relevant for the Oregon Watershed Enhancement Board grant programs.

CHANGES TO RULE:

695-005-0045

Climate-Related Evaluation Criteria

In addition to the evaluation criteria for Restoration Grants (OAR 695-010-0060), Stakeholder Engagement Grants (OAR 695-015-0070), Monitoring Grants (OAR 695-025-0140), Technical Assistance Grants (OAR 695-030-0045), Outcome-Based Watershed Council Operating Capacity Grants (OAR 695-040-0110), Land Acquisition Grants (OAR 695-045-0180), Water Acquisition Grants (OAR 695-046-0196), and Focused Investment Partnership (OAR 695-047-0060), grant applications shall also be evaluated, whenever possible, on:

(1) How engagement with local communities disproportionately impacted by climate change has informed or will inform the project.

(2) How changing climate conditions are incorporated into the project and how the project will contribute to durable adaptation and resilience for ecosystems, including human communities.

(3) How consideration of greenhouse gas emissions or long-term carbon sequestration or storage has informed the project.

Statutory/Other Authority: ORS 541.906

Statutes/Other Implemented: ORS 541.890 - 541.969