# Drinking Water Source Protection Grant Program

Rulemaking Advisory Committee

Meeting 1

January 10, 2024 | 9 am – 12 pm

OREGON
WATERSHED
ENHANCEMENT BOARD

# Agenda

Welcome and Introductions | 9:00 – 9:15

Background | 9:15 – 9:35

Role of RAC and Rulemaking Process | 9:35 – 9:55

Break | 9:55 – 10:10

Draft Rule Language Discussion | 10:10 – 11:20

Break | 11:20 – 11:30

Public Comment | 11:30 – 11:45

Next Steps and Conclude | 11:45 -12:00

# **Background**

- Bill background

- OWEB board initiation of rulemaking

# Bill Background

- House Bill (HB) 2010 established new source water protection land acquisition grant program at OWEB

- Funding - $1M in General Fund, $4M in Lottery Revenue Bond funds (Spring 2025 bond sale)

# HB 2010 Details

- Program to provide grants to water suppliers to protect, restore or enhance sources of drinking water
    - Acquiring lands from willing sellers where the protection, restoration or enhancement of those lands will benefit a source of drinking water used by the water supplier;
    - Entering into covenants, easements or similar agreements;
    - Repaying a loan used to finance a project.

# HB 2010 Details

- Water supplier and water system definitions (ORS 448.115)

- Water supplier partnership with holder per ORS 271.715; requirements in OWEB OARs

- Grants may not exceed $3M

- Rolling basis for grant making

# HB 2010 Details

- Form of application prescribed by board, including documented evidence that project will meet intent of HB 2010

- Rulemaking to address:
  - Review process, ranking, and evaluation
  - Eligibility criteria – water system types; rural, income and population characteristics
  - Requirements for grant applications and process
  - Matching funds

# HB 2010 Details

- Verification that grant funds meet program intent – status reports, other verification of methods of protecting property, development of long-term management plan

- Responsibility of grant recipient to fulfill terms and conditions of any agreement for use of grant funding

- Liability protection for OWEB if a grant recipient fails to fulfill terms and conditions of aforementioned agreement

- OWEB requirement for legislative reporting

# Initiation of Rulemaking

| Rulemaking Action | Dates/Deadlines |
|---|---|
| Board Authorization for Rulemaking | July 2023 |
| Draft Rules Developed | Winter 2024 |
| RAC Meetings to Vet Draft Rules and Provide Feedback | Winter/Spring 2024 |
| Draft Rules Revised Based on RAC Feedback | April 8, 2024 |
| Notice Filed with Secretary of State | April 8, 2024 |
| Public Comment Materials posted online | April 8, 2024 |
| Notice to Agency Mailing List and Legislators | April 8, 2024 |
| Secretary of State's Bulletin | April 8, 2024 |
| Public Comment Period | April 8-May 6, 2024 |
| Public Hearing(s) | April 2024 |
| Revisions to Draft Rules Based on Public Comment | May/June 2024 |
| Board Adoption of Rules | July 2024 |

# RAC & Rulemaking Context

**What is an Oregon Administrative Rule?**

*Any agency directive, standard, regulation or statement of general applicability that implements, interprets, or prescribes law or policy or that describes the procedure or practice of any agency.*

# RAC & Rulemaking Context

## How does OWEB use administrative rules?

*Interpret statute to describe the solicitation, review, funding decisions and administration of agency grant programs*

## Do all OWEB grant programs have separate administrative rules?

*Almost! Those grant programs that do not are operated under the broad OWEB Grant Program rules (Division 5)*

# RAC & Rulemaking Context

## How does OWEB make administrative rules?

*The OWEB Board initiates rulemaking if existing rules need to be amended or new rules should be developed. Staff form a rulemaking advisory committee (RAC) to help develop rule language to bring back to OWEB Board.*

## What does the RAC do?

*Serves as an advisory body to OWEB, with a role of providing advice and framing policy choices to the agency.*

# Fiscal and Economic Impact

## Fiscal Impact of Proposed Rules

- State Agencies, Units of Local Government, and the Public

## Impact of Proposed Rules on Small Businesses

# Public Engagement for RAC Meetings

## Opportunities for Public Comment-RAC Meetings

- Written
- Verbal

## Formal Comment Period-Draft Rule Language

## Other Engagement Opportunities

# Public Engagement – DWSP Grant Program

- Current outreach: SDAO, OAWU, LOC; coordination with existing initiatives

- Planned outreach

# BREAK

# Oregon Watershed Enhancement Board

## Chapter 695

- ^ **Division 1 - PROCEDURAL RULES**
- ^ **Division 3 - PUBLIC RECORDS ACCESS AND REPRODUCTION**
- ^ **Division 4 - WATERSHED ENHANCEMENT PROGRAM**
- ^ **Division 5 - OWEB GRANT PROGRAM**
- ^ **Division 10 - RESTORATION GRANTS**
- ^ **Division 15 - STAKEHOLDER ENGAGEMENT GRANTS**
- ^ **Division 25 - MONITORING GRANTS**
- ^ **Division 30 - TECHNICAL ASSISTANCE GRANTS**
- ^ **Division 35 - SMALL GRANT PROGRAM**
- ^ **Division 40 - OUTCOME-BASED WATERSHED COUNCIL OPERATING CAPACITY GRANTS**
- ^ **Division 45 - LAND ACQUISITION GRANTS**

# Draft Rule Language

# Current OWEB Rulesets

- Division 5 rules

# DWSP Draft Rule Headers

- Purpose

- Definitions

- Eligibility

- Application requirements

- Use of grant funds

- Matching contributions

- Terms of Property Interest?

- Application evaluation process and Evaluation criteria

- Board Approval and Delegation of Authority

- Public Involvement

- Distribution of Funds

- Grant Reporting Requirements

- Compliance and Enforcement

- Access

- Waiver and Periodic Review of Rules

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# Eligible Entities

- Eligible applicants: Water suppliers per ORS 448.115. Separately, option of partnership with holders.

- Eligible water systems – Leverage input from DEQ and OHA

# Eligible Communities

Requirements to serve rural communities, communities experiencing lower incomes or communities that are at or below a specific population level

# Eligible Communities

1. The Oregon Office of Rural Health - any geographic area that is ten miles or more from a population center of 40,000 people or more.  Frontier counties are those with six or fewer people per square mile. Of Oregon's 36 counties, 10 are designated by ORH as frontier.
2. The U.S. Census Bureau - population and housing units not in urbanized areas and not in places of more than 5,000 persons outside of urbanized areas.
3. Rural/Urban Commute Areas (RUCAs) – Census tracts with codes 4-10.
4. Office of Management and Budget – counties without Census designated metropolitan statistical areas (MSAs).

The EJ Council has also not adopted a definition for low-income communities, although frequently see increases in health disparities in communities/census tracts where households earn at or below 200% of the federal poverty level. The U.S. Department of Treasury defines low-income as households earning at or below 185% of the federal poverty level.

From HB 4077 process, asking applicants to narratively describe how their community fits within a given category (e.g., rural communities, communities experiencing lower incomes, or communities that are at or below a specified population level).

# Eligible Properties for Grant Program

- For example, from OAHP: "Eligible properties for Working Land Conservation Covenant and Easement Grants are working lands as defined in ORS 541.977(2)."

# Application Requirements

For example, from OWEB land acquisition:

"(1) Land acquisition grant applications must be submitted on the most current form that conforms with the process prescribed by the Board.

(2) The Board may consider proposals that are received for properties that were acquired by the applicant after the previous application deadline.

(3) In the event of any conflict between these requirements and requirements identified in OAR 695-005, the land acquisition requirements in this division will take precedence."

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# BREAK

# Public Comment

- Verbal comment

- Written comment

# **Next steps**

- Follow-ups from today

- Future meetings