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3 PROPOSED DIVISION 40 – OUTCOME-BASED WATERSHED COUNCIL OPERATING CAPACITY
4 GRANTS

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6 **695-040-0010. Purpose**

7 (1) To guide the Oregon Watershed Enhancement Board in accepting, reviewing for eligibility
8 and merit, and considering for funding applications for Council Capacity Grants pursuant to ORS
9 541.918, 541.926(1)(e), 541.923, and 541.910.

10
11 (2) To provide a grant program to help support the operations of watershed councils that
12 engage people and communities in their watershed to participate in the collaborative, voluntary
13 restoration and protection of native fish or wildlife habitat and natural watershed functions to improve
14 water quality or stream flows.

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16 (3) To encourage the development of high-capacity local infrastructure and continuous
17 improvement.

18
19 Stat. Auth.: ORS 541.906

20 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

21 Hist.: OWEB 3-2004, f. & cert. ef. 9-20-04; OWEB 7-2014, f. & cert. ef. XX-XX-14

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23 **695-040-0020. Definitions**

24 (1) "OWEB" means the Oregon Watershed Enhancement Board state agency.

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26 (2) "Council Action Plan" means a plan or set of plans adopted by the council that identify and prioritize
27 the ecological problems the council seeks to address, and the priority, voluntary restoration,
28 enhancement, monitoring and/or community engagement activities the council will conduct to address
29 those problems.

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31 (3) "Watershed council" or "council", pursuant to ORS 541.890(15), means a voluntary local organization,
32 designated by a local government group convened by a county governing body, to address the goal of
33 sustaining natural resources and conducting watershed protection, restoration and enhancement within a
34 watershed as defined in 541.890(14).

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36 (4) "Council Capacity Grant" means an OWEB grant awarded to a watershed council or group of
37 watershed councils under the Outcome-Based Watershed Council Operating Capacity Grant Program on
38 or after January 1, 2015.

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40 (5) "Watershed Council Support Grant" means an OWEB grant awarded to a watershed council or group
41 of watershed councils prior to July 1, 2013, for the purpose of supporting the capacity of a council or
42 group of councils to conduct the activities necessary for the watershed protection, enhancement, and
43 restoration work of the council(s).

44
45 (6) "Council's governing body" means the group of people who have the responsibility to a) ensure that
46 the council meets legal requirements, b) support successful achievement of the council's goals, and c)
47 create a structure, policies, and procedures that support good governance.

48
49 Stat. Auth.: ORS 541.906

50 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

51 Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04; OWEB 7-2014, f. &
52 cert. ef. XX-XX-14

695-040-0030. Eligibility Criteria

The purpose of the eligibility criteria is to define which watershed councils are eligible to apply for Council Capacity Grants. These eligibility criteria do not limit or control the existence or creation of watershed councils.

A watershed council, or group of watershed councils, is eligible to apply for a Council Capacity Grant only if OWEB determines it meets all of the eligibility criteria.

(1) Designation as a watershed council by a local government:

- (a) For watershed councils previously awarded a Watershed Council Support Grant, the council must be designated as a watershed council by a local government.
- (b) For new or reorganized watershed councils, the council must be designated as a watershed council by a county commission, county board, or county court.

(2) Geographic Area:

- (a) A geographic area served by a council or group of councils can change. However, to be eligible, OWEB must determine that a council or group of councils serve an area:
 - (A) In which a council or group of councils previously received a Watershed Council Support Grant or Council Capacity Grant; and
 - (B) Which is the same or larger than the geographic area served by a council or group of councils as of July 1, 2013.
- (b) In addition, for the purposes of this eligibility criteria:
 - (A) The geographic area must include a minimum population of 500 individuals within its designated boundary or boundaries; and
 - (B) No more than one applicant is eligible for the same geographic area.

(3) Organizational Structure and Business Operations: If a watershed council or group of councils meets the relevant geographic area criteria in section 2 above, OWEB will determine whether the council or group of councils meets all of the criteria for organizational structure and business operations described in this section.

- (a) The council's governing body must have adopted bylaws or a charter that include all of the following elements:
 - (A) A declaration that the council's mission aligns with OWEB's purpose as described in the Oregon Constitution and statutes. At a minimum, the bylaws or charter must recite that a primary purpose of the council is to represent the broad and diverse geographic areas and community interests in the watershed and work collaboratively with these interests and landowners to develop and carry out voluntary watershed protection, restoration, enhancement, and community engagement activities;
 - (B) The requirement that the council's governing body must include a broad and diverse representation of the range of geographic areas and community interests in the watershed in order to represent a balance of interested and affected persons within the watershed as required by ORS 541.910(2);
 - (C) A definition, if the watershed council is a membership organization, that specifies who is eligible for watershed council membership and a provision that establishes mechanisms to remove members from the watershed council;
 - (D) A process for selection of the council's governing body and officers, including who is eligible, length of service, and procedures for removal;
 - (E) Provisions that set forth the powers, roles, and responsibilities of the council's governing body, officers, and committees;
 - (F) Provisions for the council's organizational structure including minimum number or minimum frequency of meetings, the process for formation of committees, and how the council makes decisions; and
 - (G) Define the process for amending the bylaws or charter.
- (b) The council's governing body must have adopted policies and/or procedures that include all of the following elements:

- (A) The council's policies and procedures must specifically identify the geographic areas and community interests, as referenced in the council's bylaws or charter, that must be represented on the council's governing body for the purpose of ensuring a balance of interests pursuant to ORS 541.910(2);
- (B) If the council is a membership organization, the council's policies and procedures must specifically identify the geographic areas and community interests within the watershed that the council seeks to have represented within its general membership body;
- (C) Provisions for the council to operate as an open and inclusive organization, including regularly and consistently inviting the public to council meetings, and providing opportunities for the public to participate in council activities. At a minimum, the policies and procedures need to include:
- i. The council has a regular, published meeting schedule;
 - ii. The council advertises meetings and council activities using locally appropriate methods;
 - iii. The council's governing body meetings include agendas, attendance records, and minutes;
 - iv. The council's general meetings are open to the public and include agendas, attendance records, and records of any decisions made by the members; and
 - v. The council makes available, upon request, meeting agendas and records of decisions of its governing body.
- (D) Provisions that require the council, or its fiscal sponsor, to use Generally Accepted Accounting Practices (GAAP); and
- (E) The council does not rely on litigation to compel regulatory enforcement as a means to implement its mission.
- (c) The Council's governing body must have adopted a Council Action Plan.
- (A) OWEB requirements for Council Action Plans shall be determined in accordance with guidance adopted and periodically reviewed by the Board and made available to the public on the OWEB website and in Board meeting materials.
- (d) The council must demonstrate at least one of the following:
- (A) It is registered with the State of Oregon;
 - (B) It has a written fiscal sponsorship agreement with a 501(c)(3) organization; or
 - (C) It has a written fiscal sponsorship agreement with a Soil and Water Conservation District, city, county, or tribal government.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04; OWEB 7-2014, f. & cert. ef. XX-XX-14

695-040-0090. Eligibility Determination

(1) The eligibility of a watershed council or group of councils to submit an application for a Council Capacity Grant shall be determined in accordance with guidance adopted and periodically reviewed by the Board and made available to the public on the OWEB website and Board meeting materials.

(2) If a watershed council disagrees with the determination that it is not eligible to submit an application and wishes to appeal, the council must follow the appeal process contained in the guidance adopted by the Board.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14

164 **695-040-0100. Application Requirements**

165 Council Capacity Grant applications must be submitted on the most current form that conforms to the
166 requirements and process prescribed by the Board.

167
168 Stat. Auth.: ORS 541.906

169 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

170 Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14

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172 **695-040-0110. Merit Evaluation**

173 (1) Applications will be evaluated in accordance with the guidance adopted and periodically reviewed by
174 the Board and made available to the public on the OWEB website and in Board meeting materials.

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176 (2) Through its merit evaluation, OWEB seeks to:

177 (a) Ensure strategic and accountable investment of public funds;

178 (b) Encourage continuous improvement in watershed councils' organizational management,
179 operating structure, and functions, and the planning and implementation of on-the-ground
180 watershed protection, restoration, enhancement, and community engagement activities; and

181 (c) Ensure watershed councils are working toward strengthening their role in the watershed
182 though activities focusing on council resilience, leadership, collaboration, and representing a
183 balance of interested and affected persons within the watershed as required by ORS
184 541.910(2).

185
186 (3) Merit evaluation shall include reviews for:

187 (a) Prior performance;

188 (b) Progress in accomplishing council work plans that is demonstrated over time; and

189 (c) Demonstration of progress toward the objectives described in section 2 above, as set forth in
190 guidance adopted by the Board.

191
192 Stat. Auth.: ORS 541.906

193 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

194 Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14

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196 **695-040-0120 Board Action on Eligible Applications**

197 (1) The Board may fund grants to watershed councils or a group of councils.

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199 (2) The Board shall take action on eligible applications for Council Capacity Grants in accordance with
200 guidance adopted by the Board and made available to the public on the OWEB website and in Board
201 meeting materials.

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203 (3) Individual Council Capacity Grant funding levels are within the Board's discretion based on
204 consideration of:

205 (a) A watershed council's merit evaluation;

206 (b) The Board's determination, if any, under 695-040-0120(3)(d); and

207 (c) Available funding.

208 (d) Notwithstanding subsections (a), (b) and (c), the Board may award an individual Council
209 Capacity Grant for a larger geographic area when the Board determines that such action will
210 likely increase collaboration and resource sharing, inter-watershed coordination, and will
211 likely foster organizational resilience and watershed restoration outcomes at a larger
212 landscape scale. The Board's determination shall be made in accordance with guidance
213 adopted and periodically reviewed by the Board and made available to the public on the
214 OWEB website and in Board meeting materials. Such an award by the Board may include a
215 reduction in the number of individual Council Capacity Grants within the larger geographic
216 area and a reduction in funding levels for individual watershed councils within the larger
217 geographic area.

219 Stat. Auth.: ORS 541.906
 220 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
 221 Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14
 222
 223 **695-040-0130. Use of Funds**
 224 Council Capacity Grants provide funding for day-to-day operations of the watershed council or group of
 225 councils.
 226
 227 Stat. Auth.: ORS 541.906
 228 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
 229 Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14
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 231 **695-040-0140. Grant Agreement Conditions**
 232 The Council Capacity grantee will be required to:
 233 (1) Submit an annual work plan update.
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 235 (2) Submit an annual report to OWEB and all local government entities that designated the
 236 council; and
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 238 (3) Obtain appropriate levels of insurance coverage commensurate with council activities.
 239
 240 Stat. Auth.: ORS 541.906
 241 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
 242 Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14
 243
 244 **695-040-0150. Waiver of Rules**
 245 The Director may waive any requirements of Division 40 for individual grant applications, not including
 246 mandatory statutory requirements, when doing so will result in more efficient or effective implementation
 247 of the Outcome-Based Watershed Council Operating Capacity Grant Program. Any waiver granted shall
 248 be in writing and included in the permanent file of the grant for which the waiver was granted.
 249
 250 Stat. Auth.: ORS 541.906
 251 Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
 252 Hist.: OWEB 7-2014, f. & cert. ef. XX-XX-14
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