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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 123
OREGON BUSINESS DEVELOPMENT DEPARTMENT

FILED
07/11/2019 8:21 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: These rules relate to the Water/Wastewater Financing Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/27/2019 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

These rules are needed to provide standards and criteria for the Water Wastewater Program and are mandated by ORS 285B.560-25B.599.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 285B.560-285B.599

FISCAL AND ECONOMIC IMPACT:

There is no fiscal impact to the public directly as a result of these rules. This is a voluntary loan and grant program for eligible water wastewater projects. If a municipality chooses to fund a project through this program interest and other costs may apply.

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).

Municipalities are eligible to apply to the program for water wastewater project financing if they choose. Small business are not eligible for this program. These administrative rules do not require recordkeeping.

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

Interested parties were involved in the development of these amendments. Small business are not eligible for this program.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

An official committee was not consulted. There is no fiscal impact. Interested parties that would be directly impacted by these rules were involved in the development of these amendments including other state agencies and municipalities.

RULES PROPOSED:

123-043-0010, 123-043-0015, 123-043-0035, 123-043-0041, 123-043-0055, 123-043-0065, 123-043-0075, 123-043-0085, 123-043-0095, 123-043-0105, 123-043-0115

AMEND: 123-043-0010

RULE SUMMARY: Definitions no longer needed were removed. Added definitions of terms for consistency with statute.

CHANGES TO RULE:

123-043-0010

Definitions ¶¶

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. As used in this division of administrative rules, the following terms shall have the following meaning, unless the context clearly indicates otherwise:¶¶

(1) "DEQ" means the State of Oregon Department of Environmental Quality.¶¶

~~(2) "Facilities" means something that is built~~Drinking water project" means a project for iconstalled to perform some particular function.¶¶

~~(3) "Fund" means the water fund creat~~tructing or improving a drinking water system or a water development project, as defined byin ORS 285B.563.¶¶

~~(4) "Grant" means an award to a municipality of monies that can be used to reimburse eligible project costs. Grant funds are not required to be repaid when contract conditions are met~~541.700 (6)(a), (b) and (d) to (f), that is owned and operated by a municipality.¶¶

~~(3) "Fund" means the water fund created by~~ ORS 285B.563.¶¶

~~(54) "Non-compliance" means the municipality has received a notice of non-compliance with:~~¶¶

(a) Drinking water quality standards administered by the Oregon Health Authority Drinking Water Services; or¶¶

(b) Water quality statutes, rules, orders, or permits administered by DEQ or the Environmental Quality Commission.¶¶

~~(6) "Project" means only a project for constructing or improving a drinking water system, or a project for constructing or improving a system for waste water collection or treatment, including storm drainage systems as defined in ORS 285B.560(4) and (5).~~¶¶

~~(7) "System" means the interconnected facilities that are required or useful for performing the required function.~~¶¶

~~(85) "Technical Assistance" means preliminary engineering or planning; legal, financial, and economic investigations, reports and studies to determine the feasibility of a Pwater project. Technical Assistance also means required Water Master Plans or Wastewater Facilities Plans needed to allow communities to properly plan for the future.~~¶¶

~~(6) "Wastewater system improvement project" means a project for constructing or improving a system for wastewater collection or treatment, including storm drainage systems.~~¶¶

~~(7) "Water project" means either a drinking water project or a wastewater system improvement project.~~¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0015

RULE SUMMARY: This rule was amended to consolidate eligible expenses into one list and add more detail for water project development costs.

CHANGES TO RULE:

123-043-0015

Eligible Project Costs and Activities- Water Projects ¶

~~(1) Eligible costs include the reasonable costs as determined by the Authority for eligible program activities and include:¶~~

~~(a) Project development costs;¶~~

~~(b) Construction contingencies as approved by the Authority for water projects owned and operated either by the municipality for a project;¶~~

~~(c) Financing costs associated with the department's financing including capitalized interest, issuance and debt service reserve costs, when such costs are incurred in funding a project;¶~~

~~(d) Costs incurred by the municipality prior to a non-technical assistance award if such costs are allowable under the Department's adopted policy for reimbursement of pre-award costs; and¶~~

~~(e) At the discretion of the Authority, reasonable, new project management costs but not expenses for current staff that are already included in the municipality's adopted budget.¶~~

~~(2) Eligible project and program activities include the construction, improvement or expansion of the following facilities owned and operated either by the municipality or under a management contract or an operating agreement with the municipality:¶~~

~~(a) Domestic under a management contract or an operating agreement with the municipality and may include:¶~~

~~(1) Water project development costs including but not limited to costs associated with design and engineering, architectural and planning work, permitting, environmental review, regulatory processes, public outreach, community engagement, technical assistance and support activities necessary to support the construction of a project;¶~~

~~(2) Construction, improvement or expansion of drinking water system projects including all facilities necessary for source, supply, filtration, treatment, storage, transmission, and metering;¶~~

~~(b) Wastewater system Construction, improvement or expansion of wastewater system improvement projects including all facilities necessary for collecting, conveying, pumping, treating and disposing of sanitary sewage, including correction of infiltration and inflow through replacement of lines, sliplining, or other corrective processes approved by the Authority;¶~~

~~(c) S;¶~~

~~(4) Construction, improvement or expansion of storm drainage systems including all facilities necessary for controlling, collecting, conveying, treating and discharging of storm-water;¶~~

~~(d) The acquisition of real property directly related to or necessary for the proposed water project; and¶~~

~~(e) Project development and the associated Construction contingencies for the water project;¶~~

~~(7) Financing costs associated with the department's financing, including engineering, architectural and planning work involved in developing the facilities listed in (1) above, including technical assistance and support activities necessary to the construction of a project including capitalized interest, issuance and debt service reserve costs, when such costs are incurred in funding a project;¶~~

~~(8) Costs incurred by the municipality prior to a water project award if such costs are allowable under the department's adopted policy for reimbursement of pre-award costs; and¶~~

~~(9) Direct project management costs as determined by the Authority in ORS 285B.560(1).~~

Statutory/Other Authority: ORS 285B.563

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0035

RULE SUMMARY: This rule is amended to make the program more accessible to communities, including supporting those projects needed to stay in compliance with regulatory requirements and projects associated with community health, drinking water supply, or water quality urgency. Also added prioritization criteria for use when funds are limited.

CHANGES TO RULE:

123-043-0035

Criteria and Limitations for Funding - ~~Non-Technical Assistance~~ Water Projects ¶

~~(1) The intent of the Legislature was to provide funding to municipalities to assist in complying with the Safe Drinking Water Act and the Clean Water Act. Therefore, priority will~~ Priority shall be given to projects necessary to ensure that municipal water and wastewater systems ~~comply~~ achieve or maintain compliance with the requirements of: ¶

(a) Drinking water quality standards administered by the Oregon Health Authority Drinking Water Services; or ¶
(b) Water quality statutes, rules, orders, or permits administered by DEQ or the Environmental Quality Commission. ¶

(2) If a municipal water or wastewater system has not been issued a notice of non-compliance by the governing regulatory authority, the Authority may determine that a proposed project is eligible for assistance upon a finding that one of the following has been met: ¶

~~(a) The Authority deems it reasonable and prudent that an award from the fund will assist in bringing the d~~ A recent letter has been issued by the appropriate regulatory authority, such as the Oregon Health Authority D ~~rinking w~~ Water, storm water or wastewater system into Services, DEQ, or its contracted agent, which indicates a high probability that the system owner will soon be notified of non-compliance with e ~~ithe requirements of~~ r the Safe Drinking Water Act, or the Clean Water Act, those requirements proposed to take effect. ¶

~~(b) The project would assist a municipality achieve or maintain compliance within the next two years, or the requirements of other~~ Safe Drinking Water Act or the Clean Water Act, as documented by a regulatory agency ~~recognized by the Authority as having responsibility for the protection of water quality and the supply of clean drinking water; or~~ ¶

~~(b) A recent letter has been issued by the appropriate regulatory authority, typically the Department of Human Services~~ The project would address an urgent need including: ¶

(A) Projects intended to address a community drinking W ~~w~~ ater Program, DEQ, or its contracted agent, which indicates a high probability that the system owner will soon be notified of non-compliance with either the Safe Drinking Water Act or the Clean Water Act. ¶

~~(3) The Authority generally will not fund projects without the conditions of 123-043-0035(2) being met~~ health risk; ¶

(B) Projects intended to address a community drinking water supply concern; ¶

(C) Wastewater projects intended to address a surface water or groundwater quality concern; or ¶

(D) Stormwater projects intended to reduce community vulnerability to flooding. ¶

~~(4) The project must be consistent with the acknowledged local comprehensive plan.~~ ¶

~~(5) When the Authority encourages regionalization whenever feasible, determines funds are limited, it will apply the following prioritization criteria when selecting water projects to receive funding:~~ ¶

~~(6) The Authority encourages asset management planning where possible.~~ ¶

~~(7) The Authority will apply approved prioritization utilizing criteria listed in this section when reviewing project information contained in project notification intake form~~ A preference for projects located within rural economically distressed areas as defined by the Oregon Business Development Department; ¶

(b) A preference for projects that support a municipality's efforts to achieve or maintain compliance with the Safe Drinking Water Act and the Clean Water Act; ¶

(c) A preference for projects that achieve water project regionalization; and ¶

(d) A preference for partnerships and collaborative projects.

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0041

RULE SUMMARY: Amended to make technical assistance awards more accessible for communities. Added a prioritization criteria for use when funds are limited. Loan and grant information moved to 123-043-0055 for consistency.

CHANGES TO RULE:

123-043-0041

Criteria and Limitations for Funding - Technical Assistance Projects ¶

- (1) ~~A~~Technical assistance awards are available to municipalities with populations of less than 15,000 people for technical assistance. If the project is 15,000 or less. ¶
- (2) The Authority may make technical assistance awards for: ¶
- (a) Water Master Plans for a Wastewater Facility pPlan or study required by a regulatory agency, the municipality is not required to document non-compliance. Other Technical Assistance projects may be considered after consulting with and receiving documentation of non-compliance; ¶
- (b) Preliminary engineering or planning; legal, financial, and economic investigations, reports and studies to determine the feasibility of a project, if the Authority determines there is adequate documentation from the regulatory agency.¶
- (2) ~~Technical assistance grants and loans are subject to the following limitations:~~¶
- (a) ~~A grant of up to \$20,000 per water, sewer, and storm drainage system may be awarded once every three (3) years for a project;~~¶
- (b) ~~A loan of up to \$60,000 may be awarded for a project. Interest shall be at 50 percent of the annual interest rate for other loans made in accordance with the requirements of this OAR chapter 123, division 43. The loan term shall not exceed seven years; uthority recognized by the Authority as having responsibility for the protection of water quality or the supply of clean drinking water that shows the technical assistance project is needed; or~~¶
- (c) ~~Studies to assess the feasibility of regionalization of drinking water or wastewater infrastructure.~~¶
- (e3) ~~Pre-award expenses are not eligible for reimbursement;~~¶
- (d4) ~~No more than \$600,000 shall be expended from the fund on technical assistance in any biennium. When awarding a grant under this section the Authority will not first consider a municipality's ability to repay a loan; and~~¶
- (e) ~~The application must meet~~When the Authority determines funds are limited, it will apply the following criteria when selecting technical assistance project to receive funding:¶
- (a) A preference for technical assistance projects located within rural economically distressed areas as defined by the requirements listed in OAR 123-043-0075(2).gon Business Development Department;¶
- (3b) ~~The loan shall be a full faith and credit obligation which is payable from any taxes which the municipality may levy within the limitations of Article XI of the Oregon Constitu~~A preference for technical assistance projects to address documented non-compliance;¶
- (c) A preference for technical assistance projects related to water project regionalization; and all legally available revenues and other funds of the municipality. A pledge of specific revenues of the municipality may be pledged in addition to the foregoing¶
- (d) A preference for partnerships and collaborative technical assistance projects.

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0055

RULE SUMMARY: Amended to ensure loan and grant approach is consistent with agency practice. Added technical assistance detail that was removed from 123-043-0041.

CHANGES TO RULE:

123-043-0055

Loan and Grant Information ¶

(1) The Authority may award financing in a manner that maximizes the use of available resources and maintains the desired credit standards of the fund. The Authority shall determine the amount, type, interest rate and terms of any financing awarded. It may offer an alternate mix or lower amount of assistance than requested. The amount of the award may be the minimum amount that the department determines is necessary to enable the project to proceed, and the Authority may investigate and recommend other sources of funds for all or part of a proposed project. Projects that the Authority determines are not financially feasible will not be funded.¶

(2) Loans for ~~non-technical assistance~~water projects:¶

(a) The term of a loan is limited to the usable life of the contracted project, or 30 years from the year of project completion, whichever is less.¶

(b) ~~Except as provided elsewhere in OAR chapter 123, division 43, ¶~~The interest rate on a loan is based on market conditions for similar debt and is set at the time of the award. In addition to, or in lieu of a grant, the Authority may offer a subsidized interest rate if the community meets the criteria identified in (3)(b) and (3)(c) below.¶

(c) The interest rate on a bond funded loan is equal to the coupon rates on the state revenue bonds funding the loan. Until the state revenue bonds funding the loan are sold, the municipality will pay interest at a rate established by the Authority on loan funds disbursed to the municipality.¶

(d) ~~¶~~The maximum amount for a loan for a project will be determined by the Authority on the basis of the department's financial analysis of the municipality's capacity for repaying the debt, the availability of moneys in the fund and prudent fund management, but will not exceed \$10,000,000.¶

(e) ~~The~~A loan shall be must be secured by a full faith and credit obligation ~~which that~~ is payable from any taxes which the municipality may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the municipality. A pledge of specific revenues of the municipality may be required by the Authority to be pledged in addition to the foregoing.¶

(3) Grants for ~~non-technical assistance~~water projects: When making a determination to award a grant, the Authority will apply prudent fiscal management of the fund in order to manage limited funding resources. The Authority shall determine if the project meets the criteria of a grant and make a determination on the amount of the grant based on financial need or other special circumstances. In making its determination, the Authority shall apply the following criteria:¶

(a) The Authority's financial analysis determines that the municipality's financial resources, including its borrowing capacity, are insufficient to finance the project;¶

(b) The projected annual residential utility rate for the system is at least equivalent to a minimum rate as determined by the Authority's policy. The Authority's policy may include such factors as the most recent U.S. Census data on median household income and annual adjustments for inflation since the most recent census;¶

(c) Only a ~~distressed community~~community with a median household income below the state average is eligible for a grant award; and¶

(d) Grants may be awarded up to \$750,000 based on the ~~D~~epartment's policy, but not more than 50 percent of the financial award from the fund.¶

(4) Loans for technical assistance projects:¶

(a) A loan of up to \$60,000 may be awarded for a technical assistance project. Interest shall be at 50 percent of the annual interest rate for other loans made in accordance with the requirements of this OAR chapter 123, division 43. The loan term shall not exceed seven years.¶

(b) A loan must be secured by a full faith and credit obligation that is payable from any taxes which the

municipality may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the municipality. A pledge of specific revenues of the municipality may be pledged in addition to the foregoing.

(5) Grants for technical assistance projects:

(a) A grant of up to \$20,000 per water, sewer, and storm drainage system may be awarded once every three (3) years for a project.

(b) No more than \$600,000 of grant may be awarded for technical assistance projects in any biennium.

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0065

RULE SUMMARY: Amended to remove unnecessary language.

CHANGES TO RULE:

123-043-0065

Application Requirements ¶¶

(1) A municipality may submit an application to the Authority at any time after the Authority has made a preliminary determination of eligibility and shall comply with the Authority's procedures for submitting applications. ~~The Authority may, to the extent possible, assist municipalities in understanding program requirements and in completing applications.¶¶~~

(2) For a project that is part of a system that is, or will be, functionally connected to, another municipality's system, an intergovernmental cooperation agreement that describes the duties and obligations of each entity is required. The fully executed intergovernmental agreement must be provided before the financing contract will be executed by the Authority.¶¶

(3) The application shall be in the form provided by the Authority and shall contain or be accompanied by such information and documentation as the Authority may require. The Authority will process only completed applications.

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0075

RULE SUMMARY: Amended feasibility requirement to reflect agency approach.

CHANGES TO RULE:

123-043-0075

Application Review and Approval ¶

(1) For a ~~non-technical assistance~~ water project, the Authority must make the following determinations:¶

(a) ~~The municipality shall document that~~ Project feasibility as demonstrated by certification from a professional engineer registered in the State of Oregon has certified in an engineering report, such as a Master Plan, that the proposed project is feasible, and is the most cost effective solution, and adequately serves the applicable land uses in both ~~other feasibility documentation approved by the short and long term; Authority.~~¶

(b) The loan is secured by the pledge of utility revenues or other revenues or payments from owners of specially benefited properties, and these revenues or payments are sufficient, when considered with other security, to assure repayment of the loan and the municipality has certified to the Authority that there will be adequate funds available to repay the loans made to the municipality from the fund;¶

(c) Moneys in the appropriate accounts of the fund are or will be available for the project;¶

(d) The municipality is willing and able to enter into a contract with the Authority;¶

(e) The project is consistent with the requirements governing assistance from the fund. If the Authority determines that the municipality or the proposed project does not meet the requirements of this OAR 123-043-0075, the Authority may reject an application or require further documentation from the municipality; ~~and.~~¶

(f) The project is ready to begin and the municipality has committed in writing that, if awarded the assistance it shall proceed immediately.¶

(2) To award assistance from the fund for a technical assistance project, the Authority must ~~make the following determinations:~~¶

~~(a) The technical assistance activities must be for a project that is eligible under the criteria listed in 123-043-0041; and~~¶

~~(b) To determine that the municipality has, or has demonstrated the ability to secure, the administrative capacity to undertake and complete the project.~~

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0085

RULE SUMMARY: Language related to contracts that was deemed unnecessary is proposed to be removed.

CHANGES TO RULE:

123-043-0085

Contract Administration Requirements and Disbursement of Funds ¶

(1) The Authority shall disburse monies from the fund for water projects or technical assistance projects only after entering into a binding contract with the municipality. ¶

(2) The contract shall be in a form provided by the Authority, ~~and shall include:~~ ¶

~~(a) A provision that disbursements from the fund will be according to the terms of the contract; ¶~~

~~(b) A provision that the liability of the Authority under the contract is contingent upon the availability of moneys in the fund for use in the project; ¶~~

~~(c) ¶~~

~~(3) If any portion of the assistance is in the form of a loan or the purchase of a bond of a municipality, a provision granting the Authority a lien on or a security interest in the collateral as determined by the Authority to be necessary to secure repayment of the loan or bond; ¶~~

~~(d) A provision that, for a period of up to six (6) years after project completion, the Authority may request that the municipality, at its own expense, submit data ~~o~~ shall be included in the economic development benefits of the project, including but not limited to information on new or retained jobs; ¶~~

~~(4) Drinking water projects are, sulting from the project, and other information necessary to evaluate the success and economic impact of the project; ¶~~

~~(e) For a drinking water project, bject to the following contract provisions: ¶~~

~~(a) A provision requiring the municipality to install meters on all new active service connections from any distribution lines that may be included in the project; and ¶~~

~~(b) For a drinking water project with existing, active unmetered service connections, a provision requiring the municipality to install meters on such service connections no later than two years after the completion of the project; and ¶~~

~~(g) Other provisions that the Authority considers necessary or appropriate to implement the assistance. ¶~~

~~(3) ¶~~

(5) Other funds that may be needed to complete the project must be available or the municipality must have a binding commitment for such funds at the time the contract is executed. If a portion of the other funds needed to complete the project is committed but not available at the time an award is made or the contract executed, the contract shall require that the project be fully funded prior to any disbursement from the fund. ¶

(46) The contract for a loan ~~or grant~~ shall be authorized by an ordinance, order or resolution adopted by the governing body of the municipality in accordance with the municipality's requirements for public notice and authorizing debt.

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

AMEND: 123-043-0095

RULE SUMMARY: Requirements more appropriately handled through contractual means was removed.

CHANGES TO RULE:

123-043-0095

Recipient Responsibilities ¶¶

- (1) The municipality must comply with all applicable state laws, regulations and requirements, such as Oregon prevailing wage rates, municipal audit law, and procurement regulations.¶¶
- ~~(2) The municipality shall maintain accounts and records for all activities associated with the contracted project and shall provide the Authority and its representatives reasonable access to such records. The municipality shall submit periodic reports on the project as requested by the Authority.¶¶~~
- ~~(3)~~ The municipality shall certify that a registered professional engineer will be responsible for the design and construction of the project and it shall follow standard construction practices, such as bonding of engineers and contractors, requiring errors and omissions insurance, performing testing and inspections during construction, and obtaining as-built drawings.¶¶
- (43) For a project funded with state lottery proceeds, the municipality shall comply with ORS 280.518 for public display of information on lottery funding of the project. At a minimum the municipality shall:¶¶
 - (a) Include the following statement, prominently placed, on all plans, reports, bid documents and advertisements relating to the Project: "This project was funded in part with a financial award from the Water Fund, funded by the Oregon State Lottery and administered by the State of Oregon, Business Development Department." and¶¶
 - (b) For a construction project, post a sign, provided by the Authority, at the project site or, if more than one site is included in the project, at a site visible to the general public stating that the project is being funded by lottery proceeds.¶¶
- (54) For a construction project the municipality shall have a plan for ongoing operation, maintenance, and replacement that will preserve the project's benefits over its useful life.

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599

REPEAL: 123-043-0105

RULE SUMMARY: Rule is repealed as requirements are appropriately handled through contractual means.

CHANGES TO RULE:

~~123-043-0105~~

~~Remedies-~~

~~The Department may pursue any remedies available to it against a municipality upon the occurrence of an event of default under the Authority's contract with the municipality.~~

~~Statutory/Other Authority: ORS 285B.563, 285A.075~~

~~Statutes/Other Implemented: ORS 285B.560 – 285B.599~~

AMEND: 123-043-0115

RULE SUMMARY: Amended to avoid redundancy and waiver authority that is captured elsewhere.

CHANGES TO RULE:

123-043-0115

Appeals and Exceptions ¶

~~(1) Appeals of decisions made by the municipality regarding a project must be made at the local level in accordance with the requirements and procedures of the municipality.¶~~

~~(2) The director or the director's designee will consider appeals of the Authority's funding decisions. Only the municipality may appeal. Appeals must be submitted in writing to the director within 30 days of the event or action that is being appealed. A project that would have been funded but for a technical error in the Authority's review of the application, as determined by the director, will be funded as soon as sufficient moneys become available in the fund, provided the project is still viable. The director or the director's designee decision is final.¶~~

~~(3) The director or the director's designee may waive any non-statutory requirements of OAR chapter 123, division 43, if it is demonstrated such a waiver will further the goals and objectives of the program.~~

Statutory/Other Authority: ORS 285B.563, 285A.075

Statutes/Other Implemented: ORS 285B.560 - 285B.599