

ANALYSIS

Item 15: Oregon Health Authority Emerging Contaminants

Analyst: Matt Stayner

Request: Increase Federal Funds expenditure limitation by \$10,122,062 and authorize the establishment of a Compliance and Regulatory Manager position (0.63 FTE) to facilitate the administration of a federal grant from the U.S. Environmental Protection Agency to fund water infrastructure projects addressing public health risks related to emerging contaminants

Analysis: The federal Bipartisan Infrastructure Law of 2021 provided supplemental funding to state drinking water and clean water revolving fund programs through the U.S. Environmental Protection Agency (EPA). The subject of this request is a \$9.94 million allotment of funding for the 2022 federal fiscal year to address emerging contaminants, particularly polyfluoroalkyl substances, manganese, and cyanotoxins through investment in safe drinking water infrastructure. This funding is for the first of five years, with a total of \$55.9 million to be allocated in annual increments by the EPA. The grant application deadline was July 31, 2023. The Oregon Health Authority (OHA) received retroactive authorization to apply for the supplemental funding by the Joint Interim Committee on Ways and Means during its September 2023 meeting.

The standard Safe Drinking Water State Revolving Fund rules apply to the funding except that the entire amount for emerging contaminants may be used to provide forgivable loans (subsidies) and grants, 25% must be provided to disadvantaged communities or public water systems serving fewer than 25,000 people, and no state matching funds are required. Total funding includes set-asides for administrative costs, state program administration, and technical assistance.

The total increase in expenditure authority requested is inclusive of the \$9.94 million award for the 2022 federal fiscal year and additional amounts assumed to be paid from other federal funding awards. OHA is seeking additional position authority for a Compliance and Regulatory Manager position (0.63 FTE) for the purpose of supervising the Drinking Water State Revolving Fund base funding grant programs and Bipartisan Infrastructure Law supplemental federal grant programs. This position is in addition to six existing positions, which are planned to be supervised as a newly established unit. In addition to this requested position, OHA is seeking to increase federal funds expenditure limitation in the Public Health Division by \$34.4 million for awarded federal grants and to establish an additional 57 new positions as a part of its 2024 session rebalance request. While not disregarding the possible need, it may be better to consider position authority for this grant within the context of the larger group of grant funding administrative needs within the rebalance request.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including an increase of \$9,940,000 in the Federal Funds expenditure limitation for the Oregon Health Authority in a budget reconciliation bill during the 2024 legislative session for the implementation of a federal grant from the U.S. Environmental Protection Agency to fund water infrastructure projects addressing public health risks related to emerging contaminants.

Request: Increase Federal Funds expenditure limitation by \$10,122,062 and establish one permanent, full-time position (0.63 FTE) for the Oregon Health Authority (OHA) to implement a U.S. Environmental Protection Agency grant for infrastructure projects to remediate emerging contaminants in Oregon’s drinking water.

Recommendation: Approve the request during the 2024 Legislative Session.

Discussion: OHA is requesting \$10.1 million Federal Funds expenditure limitation to begin implementing a five-year, \$55.9 million U.S. Environmental Protection Agency grant made available under the federal Infrastructure Investment and Jobs Act (IIJA) to remediate emerging contaminants in Oregon’s drinking water. There are three nationwide sources of funding provided by IIJA for drinking water infrastructure:

IIJA Funding Stream	Oregon Allocation, 2022-2026	Status
Drinking Water Revolving Fund Increase	\$164.8 million	Awarded, limitation included in OHA’s 2023-25 LAB
Emerging Contaminants Funding	\$55.9 million	Current request
Lead Service Line Replacement	\$151.9 million	Application under development

“Emerging contaminants” are contaminants known to be hazardous to human health, aquatic life, or the environment and includes, but is not limited to, per- and poly-fluoroalkyls, cyanotoxins, and manganese.

OHA will work with the Oregon Business Development Department (OBDD), who administers the Drinking Water Revolving Loan Fund, to review and select drinking water infrastructure projects to support with this funding. OHA will pass-through \$9.0 million of the \$10.1 million in grant funds to OBDD to fund infrastructure projects as well as a position at OBDD to help administer the influx of funding for these projects. OHA will spend \$0.6 million on technical assistance for communities to develop the projects. A special focus of IIJA funds are projects in small, low-income, and disadvantaged communities, which must make up 25 percent of the projects. Technical assistance funds will help ensure these districts are able to meet program requirements and can access this new funding stream. OHA will spend \$0.3 million to establish one Compliance and Regulatory Manager 1 position to oversee OHA’s Drinking Water Revolving Fund unit of six staff, prepare and manage federal grant requests and reporting, and coordinate with other drinking water services programs within OHA and OBDD. The remaining \$0.2 million will be spent on OHA’s overhead administrative costs, as allowed under the grant and OHA’s federally approved cost allocation methodology.

OHA received retroactive approval to apply for this grant through the September 2023 meeting of the Interim Joint Ways and Means Subcommittee on Human Services. The

funds are non-competitive and do not require a state match. The grant does not require any maintenance of effort.

Legal Reference: Increase Federal Funds expenditure limitation established by chapter 591, section 5(4), Oregon Laws 2023, for the Oregon Health Authority, Public Health Division, by \$10,122,062 for the 2023-25 biennium.



OFFICE OF THE DIRECTOR

Tina Kotek, Governor

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December 4, 2023

Senator Elizabeth Steiner, Co-Chair
Representative Tawna Sanchez, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairs:

Nature of the Request

The Oregon Health Authority (OHA) requests the Legislature establish one position and increase Federal Funds limitation by \$10.1 million in the Public Health Division to implement the *2022 Emerging Contaminants (EC)* federal grant awarded by the U.S. Environmental Protection Agency (EPA) through the existing Drinking Water State Revolving Fund (DWSRF). The grant funds are non-competitive, will fully cover the cost of the position, and were allocated to Oregon through the federal Infrastructure Investment and Jobs Act (IIJA) – commonly referred to as the Bipartisan Infrastructure Law (BIL).

As described in the EPA grant guidance published on March 8, 2022, BIL appropriates three new sources of infrastructure grant funding that are in addition to existing DWSRF base program funding: 1.) General Supplemental DWSRF infrastructure funding; 2.) Lead Service Line Replacement funding; and 3.) Emerging Contaminants funding. This request relates to the third source, Emerging Contaminants funds. BIL-EC grant funds will be made available annually over a 5-year period (appropriated between 2022-2026) and provides \$9,940,000 for the first year and \$11,493,000 per year for the remaining four years, totaling \$55,912,000. No state match is required.

On July 13, 2023, OHA submitted a 10-day notification letter to the Joint Interim Committee on Ways and Means, who granted approval to apply at the September 2023 meeting. The grant application was due on July 31, 2023, and OHA officially submitted its BIL-EC grant application for 2022 on July 27, 2023. The agency received the Notice of Award on September 20, 2023, with the awarded amount totaling \$9,940,000 for the first year.

Agency Action

The Oregon DWSRF program is jointly administered by OHA Drinking Water Services and Oregon Business Development Department (i.e., Business Oregon). OHA Drinking Water Services (OHA-DWS) and Business Oregon has an interagency agreement to co-administer our DWSRF program that includes this Emerging Contaminants federal grant. As long-standing partners, OHA-DWS has coordinated with Business Oregon prior to this grant opportunity announcement and will continue to coordinate during program development phases and implementation. Through workgroups and meetings on a weekly, bi-weekly and monthly basis, OHA-DWS and Business Oregon continue to ensure that we are managing program, process and funding to maximize outreach to water systems across the state and ensure access to safe drinking water for all Oregonians.

The DWSRF program provides low-cost financing of drinking water infrastructure projects that are necessary to ensure that public water systems provide safe drinking water that meets water quality standards. The BIL-EC grant offers 100 percent subsidies to community and non-profit non-community public water systems, making it the most attractive of the three new BIL funds. At least twenty-five percent of the BIL-EC annual grant funds must support projects serving disadvantaged communities (those with a median household income below the statewide median) or eligible public water systems serving fewer than 25,000 people.

The same eligibilities for entities and projects that apply under the base DWSRF program also apply to the BIL-EC grant funds. Public water systems regulated under the Safe Drinking Water Act and classified as either community systems or non-profit, non-community systems are eligible for BIL-EC funding. A wide range of infrastructure projects are eligible, addressing public health risks related to emerging contaminants with a focus on per- and polyfluoroalkyl substances (PFAS), manganese, and cyanotoxins. Additionally, projects that address any contaminant listed in any of EPA's Contaminant Candidate Lists are eligible.

These grant funds will also contribute to the OHA health equity goal by allocating at least twenty-five percent to disadvantaged communities or small water systems (below 25,000 people) and by prioritizing projects with both the greatest public health need and financial need, based on income, poverty rates and other demographic criteria.

Senator Elizabeth Steiner
Representative Tawna Sanchez
December 4, 2023
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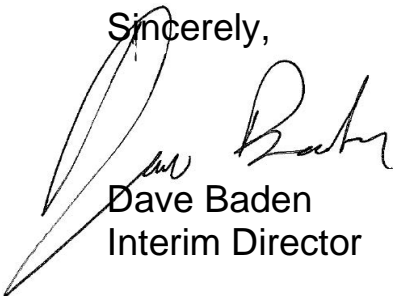
Action Requested

OHA requests the Legislature increase Federal Funds limitation by \$10,122,062 and establish one position to provide program administration, project review, grant administration for the U.S. Environmental Protection Agency (EPA) *2022 Emerging Contaminants (EC)* grant.

Legislation Affected

Oregon Laws 2021, Chapter 591, 5(4), increase Federal Funds limitation \$10,122,062.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Baden", is written over the printed name and title.

Dave Baden
Interim Director

EC: Matt Stayner, Legislative Fiscal Office
Patrick Heath, Department of Administrative Services
Kate Nass, Department of Administrative Services
Amanda Beitel, Legislative Fiscal Office