

GOVERNOR'S WATERSHED ENHANCEMENT BOARD
STATE AGENCY COORDINATION PROCEDURES GUIDE
ADOPTED BY THE GOVERNOR'S WATERSHED ENHANCEMENT BOARD

June 14, 1990

**CERTIFIED BY THE LAND CONSERVATION AND DEVELOPMENT
COMMISSION**

_____, 1990

The Board announces periods for grant application submittal when budget appropriations are made available. In the 1987-89 biennium, \$500,000 was appropriated from the General Fund. Of this amount, the Board allocated approximately \$434,000 for 19 major projects and \$39,000 directly to soil and water conservation districts. For the 1989-91 biennium, the Legislature appropriated \$1 million from state lottery revenues to fund the program. The Board has, to date, funded fencing, juniper removal, installation of log weirs, tree planting, the design of watershed plans and livestock grazing systems, and watershed enhancement seminars and workshops.

OAR 695-20-030 requires project applicants to provide a variety of information, including: the name and location of proposed watershed enhancement projects; a description of the problem addressed by the project; a list of any federal or other funds, services, or materials available or secured for the project; a project schedule; and a maintenance and monitoring plan. These rules also require confirmation from appropriate local planning officials that the proposed project complies with comprehensive plans.

OAR 695-20-050 provides project evaluation criteria. Watershed enhancement project applications are evaluated for the extent to which the project is expected to: restore, maintain, or enhance riparian areas; provide educational opportunities or promote public awareness of watershed enhancement benefits; rely on non-structural methods; make use of funds or in-kind services from other sources; and be cost-effective. The administrative rules preclude funding of a project which would be constructed solely to store water for out-of-stream uses, or to comply with a state or federal agency directive. Technical and Educational Advisory Committees have been established to conduct initial application evaluations and to provide recommendations to the Board.

Once a project application is approved, the project sponsor must enter into a grant agreement with the Board. The grant agreement is a legally binding contract that consists of: a statement of conditions and requirements; a notice of grant award; a certification of compliance with applicable state and federal regulations; the project budget; and a copy of the approved application. As stipulated in OAR 695-20-080, the grantee must agree to: submit a project report upon completion of construction or initial implementation; monitor the long-term effectiveness of the project; submit periodic status reports; and, complete the project within the timeframe approved by the Board. The Board may attach conditions to the grant agreement as needed to ensure successful implementation of the project (i.e., provision of easements for access during project construction and monitoring).

In addition to its primary grant management activities, the Board promotes public education and awareness of watershed management issues. The Board is also responsible for making recommendations regarding Water Development Loan Fund applications for watershed enhancement projects.

information must be confirmed by the signature of the appropriate local planning official(s).

- C. Establish evaluation criteria which require compliance with the goals and compatibility with comprehensive plans (OAR 695-20-050 (1)(c)).
- D. Require grantees to obtain necessary permits and licenses from local, state or federal agencies and to provide copies to the Board prior to distribution of grant funds (OAR 695-20-080 (10)).
- E. Require the Natural Resources Division of the Oregon Department of Agriculture to assure that projects funded by the Board, through soil and water conservation districts, comply with land use plans and have received necessary permits (OAR 695-20-100 (5)).
- F. Require the Board to partially base its recommendations on Water Development Loan Fund applications on compliance with the Statewide Planning Goals and comprehensive plans (OAR 695-20-195 (4)).
- G. Assure that Board actions affecting land use (i.e., grant distribution and approval of project modifications) will comply with the Statewide Planning Goals and be compatible with acknowledged comprehensive plans (OAR Chapter 695, Division 25).
 - 1) To assure compatibility with acknowledged comprehensive plans, the Board may only distribute funds for an approved grant if:
 - a) The project is allowed outright under the land use and zoning designation(s) in acknowledged comprehensive plans; or
 - b) The project is allowable, with discretionary approval, under acknowledged comprehensive plans, and the applicant has received all applicable local land use approvals.
 - 2) The Board will not distribute grant funds if discretionary land use approvals are pending. The Board may distribute funds when the applicant has received all applicable local land use approvals. The Board will evaluate project modification proposals governed under OAR 695-20-080 (4) to (6) to ensure that they comply with the goals and are compatible with comprehensive plans prior to approval.
 - 3) The Board will adopt findings of direct compliance with the Statewide Planning Goals as prescribed in OAR 695-25-030. Such findings would most likely be necessary to ensure compliance with Goal 5 and/or 6 when comprehensive plans may not have made specific provisions for watershed management and enhancement.

Attachment 1

the provisions of that Act, across any and all lands belonging to the State of Oregon and not under contract of sale, is granted.

APPROPRIATION OF WATER BY THE UNITED STATES

541.210 [Repealed by 1953 c.328 §2]

541.220 Survey of stream system; delivery of data to Attorney General; suits for determination of water rights. In any stream system where construction is contemplated by the United States under the Act of Congress approved June 17, 1902, 32 Stat. 388 to 390, and known as the Reclamation Act, the Water Resources Commission shall make a hydrographic survey of the stream system, and shall deliver an abstract thereof together with an abstract of all data necessary for the determination of all rights for the use of the waters of such system, to the Attorney General. The Attorney General, together with the district attorneys of the districts affected by the stream system shall, at the request of the Secretary of the Interior, enter suit on behalf of the State of Oregon, in the name of the state, for the determination of all rights for the use of the water, and shall diligently prosecute the same to a final adjudication. [Amended by 1985 c.673 §101]

541.230 State lands within irrigated area; restrictions on sale; conveyance of lands needed by United States. No lands belonging to the state, within the areas to be irrigated from work constructed or controlled by the United States or its authorized agents, shall be sold except in conformity with the classification of farm units by the United States. The title of such land shall not pass from the state until the applicant therefor has fully complied with the provisions of the laws of the United States and the regulations thereunder concerning the acquisition of the right to use water from such works, and shall produce the evidence thereof duly issued. After the withdrawal of lands by the United States for any irrigation project, no application for the purchase of state lands within the limits of such withdrawal shall be accepted, except under the conditions prescribed in this section. Any state lands needed by the United States for irrigation works may, in the discretion of the Division of State Lands, be conveyed to it without charge. [Amended by 1967 c.79 §1]

541.240 Right of way for ditches, etc.; reservation in conveyances. There is granted over all the unimproved lands now or hereafter belonging to the state the necessary right of way for ditches, canals, and reservoir sites

for irrigation purposes constructed by authority of the United States or otherwise. All conveyances of state land made after May 18, 1905, shall contain a reservation of such right of way and reservoir sites.

541.250 Cession to United States not rescinded. Nothing in ORS 541.220 to 541.240 shall be construed as rescinding the cession by the state to the United States of lands, as provided in chapter 5, Oregon Laws 1905.

SUITS FOR DETERMINATION OF WATER RIGHTS UNDER 1905 ACT

541.310 Suits for determination of rights; parties; survey of stream; disbursements. In any suit wherein the state is a party, for determination of a right to the use of the waters of any stream system, all who claim the right to use the waters shall be made parties. When any such suit has been filed the court shall call upon the Water Resources Commission to make or furnish a complete hydrographic survey of the stream system as provided in ORS 541.220, in order to obtain all data necessary to the determination of the rights involved. The disbursements made in litigating the rights involved in the suit shall be taxed by the court as in other equity suits. [Amended by 1985 c.673 §102]

541.320 Decrees adjudicating rights; filing; statement as to matters adjudicated.

Upon the adjudication of the rights to the use of the water of a stream system, a certified copy of the decree shall be prepared by the clerk of the court, without charge, and filed in the Water Resources Department. The decree shall declare, as to the water right adjudged to each party, whether riparian or by appropriation, the extent, the priority, amount, purpose, place of use, and, as to water used for irrigation, the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority. [Amended by 1985 c.673 §103]

WATERSHED ENHANCEMENT

541.350 Definitions for ORS 541.350 to 541.395. As used in ORS 541.350 to 541.395:

(1) "Associated uplands" includes those lands of a watershed that are critical to the functioning and protection of the riparian area.

(2) "Board" means the Governor's Watershed Enhancement Board created under ORS 541.360.

(3) "Division" means the Soil and Water Conservation Division created under ORS 561.400.

(j) The board shall use state agency employees with relevant expertise to provide staff support necessary for the board to carry out its duties and responsibilities under ORS 541.350 to 541.395. [1987 c.734 §3]

541.365 Board to conduct watershed enhancement program. A watershed enhancement program shall be conducted by the Governor's Watershed Enhancement Board to benefit all users of the waters of this state. The program shall be conducted in a manner that provides the greatest possible opportunity for volunteer participation to achieve the goals of the program. [1987 c.734 §5]

541.370 Duties of board; advisory committees. (1) In carrying out the watershed enhancement program, the Governor's Watershed Enhancement Board shall:

(a) Coordinate the implementation of enhancement projects approved by the board with the activities of the Soil and Water Conservation Division staff and other agencies, especially those agencies working together through a system of coordinated resource management planning.

(b) Use the expertise of the appropriate state agency according to the type of enhancement project.

(c) Provide educational and informational materials to promote public awareness and involvement in the watershed and enhancement program.

(d) Coordinate the activities of persons, agencies or political subdivisions developing local watershed enhancement projects approved by the board.

(e) Grant funds for the implementation of approved watershed enhancement projects from such moneys as may be available to the board therefor.

(f) Develop and maintain a centralized repository for information about the effects of watershed enhancement projects.

(g) Give priority to proposed watershed enhancement projects receiving federal funding or assistance from federal agencies.

(h) Identify gaps in research or available information about watershed enhancement.

(i) Cooperate with appropriate federal entities to identify the needs and interests of the State of Oregon so that federal plans and project schedules relating to watershed enhancement incorporate the state's intent to the fullest extent practicable.

(j) Encourage the use of nonstructural methods to enhance the riparian areas and associated uplands of Oregon's watersheds.

(2) To aid and advise the board in the performance of the functions of the board, the board may establish such advisory and technical committees as the board considers necessary. These committees may be continuing or temporary. The board shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The chairperson is ex officio a member of each committee. [1987 c.734 §6]

541.375 Watershed enhancement projects; application for funds or assistance; criteria for approval. (1) Any person, state agency, federal agency or political subdivision of this state may submit a request for funding for or for advice and assistance in developing a watershed enhancement project under the program established by the Governor's Watershed Enhancement Board under ORS 541.365.

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the board. The requester may submit the request to the board or to a local soil and water conservation district organized under ORS 568.210 to 568.805.

(3) Based upon criteria established by rule by the board, within 90 days after a district receives a request under subsection (1) of this section, the district shall either:

(a) Approve the proposal and provide the requested advice, assistance or funding for the project; or

(b) Forward the proposal to the board for approval or disapproval.

(4) A watershed enhancement project may use mechanical, vegetative or structural methods including, but not limited to, management techniques, erosion control, streambank stabilization, forest, range or crop land treatment and site specific in-stream structures.

(5) A watershed enhancement project proposal submitted to a district under this section shall not be subject to review and approval by the Soil and Water Conservation Division under ORS 561.400.

(6) The Governor's Watershed Enhancement Board shall approve for implementation only those enhancement projects that:

(a) Are based on sound principles of watershed management;

(b) Use enhancement methods most adapted to the project locale; and

Attachment 2

PROCEDURAL RULES

695-01-000

695-10-030 Notice Rule

Prior to adoption, amendment or repeal of any rule, the Governor's Watershed Enhancement Board shall give notice of the intended action:

1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days before the effective date of the intended action;

2) By mailing a copy of the notice to persons on the Governor's Watershed Enhancement Board's mailing list established pursuant to ORS 183.335 (7) at least 15 days prior to the effective date;

3) By mailing or furnishing a copy of the notice at least 15 days prior to the effective date to:

(a) Organizations

- (A) Oregon Environmental Council
- (B) Izaak Walton League
- (C) Audubon Society
- (D) 1000 Friends of Oregon
- (E) National Wildlife Federation
- (F) Oregon Natural Resources Council
- (G) Northwest Forestry Association
- (H) Associated Oregon Loggers
- (I) Oregon Cattlemen's Association
- (J) Western Oregon Livestock Association
- (K) Oregon State Grange
- (L) Oregon Farm Bureau Federation
- (M) Soil Conservation Districts
- (N) Association of Oregon Counties
- (O) Oregon Sheep Growers Association
- (P) Oregon Wheat League
- (Q) Oregon Water Resources Congress
- (R) Associated Oregon Industries
- (S) Oregon Forest Industries Council
- (T) Citizens Interested in Bull Run, Inc.
- (U) Bull Run Coalition

(b) State Agencies

- (A) Agriculture, Dept. of
- (B) Environmental Quality, Dept. of
- (C) Fish and Wildlife, Dept. of
- (D) Forestry, Dept. of
- (E) Geology and Mineral Industries, Dept. of
- (F) Governor's Office, Asst. for Natural Resources
- (G) Health Division, Dept. of Human Resources
- (H) Land Conservation and Development
- (I) Parks and Recreation Division, Dept. of Transportation
- (J) State Lands, Division of

(c) Federal Agencies

- (A) Bureau of Land Management
- (B) Corps of Engineers
- (C) Bureau of Reclamation
- (D) Forest Service
- (E) Department of Agriculture
- (F) Soil Conservation Service

GOVERNOR'S WATERSHED ENHANCEMENT BOARD

MODEL RULES OF PROCEDURE

695-10-020 Model Rules of Procedure

Pursuant to ORS 183.341, the Governor's Watershed Enhancement Board hereby adopts the Attorney General's Model Rules of Procedure, effective March 3, 1988.

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GOVERNOR'S WATERSHED ENHANCEMENT BOARD

APPLICATIONS AND PROCEDURES

695-20-010 Purpose

These rules guide the Governor's Watershed Enhancement Board in accepting applications and considering watershed enhancement proposals for funding under the provisions of ORS 541.350, et seq.

695-20-020 Definitions

- (1) "Affected city" means any city within which all or part of a watershed enhancement project funded by the Board would be located.
- (2) "Affected county" means any county within which all or part of a watershed enhancement project funded by the Board would be located.
- (3) "Board" means Governor's Watershed Enhancement Board.
- (4) "Educational Advisory Committee", or "EAC", is a 15-member continuous committee comprised of representatives from agencies and natural resources boards or commissions with representation on the Board and others with environmental, industrial or agricultural interests.
- (5) "Grant Agreement" is the legally binding contract between the Board and the grant recipient. It consists of the conditions specified in OAR 695-20-080, 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.
- (6) "Non-structural methods" are those which rely on strategies other than the creation and installation of structures to meet the project goals.
- (7) "Staff" is the Director of the Water Resources Department and personnel assigned the duties of administering the GWEB program.

allow the Board to inspect and evaluate the project;

- (j) Land use information from affected counties and cities as referenced in OAR Chapter 25, Division 25 and the Board's certified State Agency Coordination Procedures Guide.
 - (k) A statement from appropriate agencies that permits or licenses required by state or local government can be obtained;
 - (l) A project schedule including times of project beginning and completion
 - (m) A commitment from a state, federal or local agency to inspect the completed project work;
 - (n) A plan to monitor and evaluate project results including identification of responsible parties;
 - (o) A plan for operation and maintenance of the project for the projected life including identification of the responsible parties; and,
 - (p) Additional information that will aid the Board in evaluating the project under OAR 695-20-050 through 695-20-070.
- (2) The Board may require additional information to aid in evaluating and considering the proposed watershed project.
 - (3) Project applications may be submitted to the Board or to a soil and water conservation district for forwarding to the Board within the periods prescribed by the Board for acceptance of applications.

695-20-040 Application Processing

- (1) The Board will announce periods for submitting applications as funding is available.
- (2) Project applications will be reviewed for compliance with the items in OAR 695-20-030(1)(a) through (p).

- (e) Provides educational opportunities or promotes public awareness of watershed enhancement benefits;
- (f) Relies on the use of non-structural methods to enhance riparian areas and associated uplands;
- (g) Includes funds or in-kind services from federal agencies and/or other sources;
- (h) Is cost-effective based on the extent to which it maximizes participation of volunteers, encourages individuals and organizations to work jointly to accomplish the project and involves intergovernmental cooperation.

(3) The Board shall not fund a project:

- (a) That consists solely of construction of a storage structure for out-of-stream use; or,
- (b) Constructed solely to comply with a state or federal agency directive.

695-20-060 In evaluating applications under OAR 695-20-050, recommendations of the TAC and/or EAC and other appropriate agencies shall be solicited and considered to determine whether the proposal meets the considerations in OAR 695-20-050.

695-20-070 The Board may fund a project in whole or in part.

695-20-080 Grant Agreement Conditions

- (1) The Grantee must submit a project report at the completion of construction describing the work done.
- (2) The Grantee shall monitor the long-term effectiveness of the project, and continue its maintenance, submitting periodic reports on a schedule set by the Board. All reports will be filed at the Water Resources Department or at a location specified by the Board.
- (3) The Grantee must agree to complete the project as approved by the Board and within the time-frame specified in the Grant Agreement unless proposed modifications are submitted and approved by the

- (9) The Grantee shall account for funds distributed by the Board, using project expense forms provided by the Board.
- (10) The Grantee shall obtain the necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy to the Board.
- (11) The Board may place additional conditions in the Grant Agreement as necessary to carry out the purpose of the watershed enhancement program. Such conditions may include:
 - (a) requirements for easements or a commitment for continued access for monitoring the project after completion;
 - (b) a commitment by the Grantee to maintain the project for a period of time as deemed appropriate by the Board;
 - (c) a commitment to supply future reports on the project; and or,
 - (d) such other conditions as the Board deems appropriate to the particular circumstances of the project.

695-20-090 Distribution of Funds

- (1) Funds will normally be released upon presentation of a completed fund release request form accompanied by proof of completion of specific work elements of the project as identified in the Grant Agreement.
- (2) Proof of completion may be the presentation of paid receipts or invoices for materials or contracted labor, or inspection reports.
- (3) Funds may also be released upon presentation of a detailed estimate of expenses for a time period specified in the Grant Agreement. No additional funds will be released until all receipts for expenditures of previous fund releases are submitted.
- (4) Funds can not be disbursed until the Board receives satisfactory evidence that necessary permits and licenses have been granted and documents required by the Board have been

- (D) A description of expected watershed benefits to accrue from project implementation;
 - (E) Identification of specific uses for which requested funds are intended;
 - (F) Names and addresses of responsible parties;
 - (G) Total project budget and total Board funds requested; and,
 - (H) Evidence of appropriate authorization for access to the location to perform project work.
- (e) Return any moneys remaining in the fund created under OAR 695-20-100 to the Board by a date specified by the Board for reallocation to approved projects under OAR 695-20-010 through 695-20-090.
- (2) Each district may provide funding under OAR 695-20-100 up to an amount set by the Board for one or more watershed enhancement projects that:
- (a) Are consistent with watershed enhancement criteria set by the Board in OAR 695-20-050;
 - (b) Are based on sound principles of watershed management.
- (3) Districts receiving funds according to the provisions of OAR 695-20-100 may also participate in the Board's watershed enhancement program as detailed in OAR 695-20-010 through 695-20-090.
- (4) Soil and water conservation districts shall report to the Natural Resources Division on a form provided by the Division as to the use of all funds expended under OAR 695-20-100.
- (5) Soil and water conservation districts shall be responsible for assuring the projects comply with state land use planning goals and are compatible with acknowledged comprehensive plans as required under ORS 197.180 and the Board's State Agency Coordination Procedures Guide, and that necessary permits have been obtained.

GOVERNOR'S WATERSHED ENHANCEMENT BOARD

Compliance with Statewide Planning Goals, Compatibility with Comprehensive Plans, and Coordination on Land Use Matters

695-25-010 Purpose

These rules establish policies and procedures for assuring that Board actions which affect land use comply with Statewide Planning Goals and are compatible with acknowledged comprehensive plans. These rules also prescribe measures for providing technical assistance to local governments, participation in periodic review of comprehensive plans, resolution of land use disputes and other aspects of state agency coordination required by OAR Chapter 660, Division 30. These rules, coordination rules in OAR Chapter 695, Division 20, and the Governor's Watershed Enhancement Board State Agency Coordination Guide constitute the Board's state agency coordination program pursuant to ORS 197.180.

695-25-015 Definitions

- (1) "Action" means grant-related activities governed by OAR Chapter 695, Division 20, or the adoption, amendment, or implementation of any future Governor's Watershed Enhancement Board rule or program found to affect land use pursuant to OAR 660-30-005(2).
- (2) "Board" means Governor's Watershed Enhancement Board.
- (3) "Department" means Water Resources Department.
- (4) "Land use approval" means a final decision or determination made by a local government that concerns the adoption, amendment, or application of the goals or comprehensive plan provisions or implementing ordinances.
- (5) "Planning director" means the director of county or city planning departments, an appropriate designee, or other local official responsible for carrying out land use planning functions.

695-25-020 Policy

State law establishes a complementary relationship between state and local management of watersheds. The Board is required by statute to restore, maintain, and enhance watersheds to protect the well-being of the state and its citizens. Board programs shall, however, be planned and implemented by responsible parties at the local level. Local comprehensive plans must provide inventories of local watersheds as well as measures for protecting and managing those watersheds in order to comply with Statewide Planning Goals. The Board recognizes that coordination between state, local and federal agencies responsible for land management is essential to meeting policy objectives for watershed enhancement established in ORS 541.350 through 541.395. In carrying out its mandate, the Board shall maximize the effectiveness of its watershed enhancement efforts by incorporating and accommodating land use objectives as prescribed in acknowledged comprehensive plans.

- (a) The proposal;
 - (b) How the proposal affects land use;
 - (c) How the proposal provides for compliance with the Goals and compatibility with comprehensive plans; and
 - (d) A date until which the Board will accept written and oral comment on the proposal.
- (3) The Board shall not approve any rule or program changes, which have been identified in responses to the notice provided pursuant to section (2) of this rule, as out of compliance with the Goals or incompatible with acknowledged comprehensive plans.

690-25-045 Coordination with State and Federal Agencies and Special Districts

The Board shall coordinate its actions with state and federal agencies and special districts as required in OAR 660-30-060(c) by complying with the inter-agency coordination provisions in ORS 541.350 through 541.395. These provisions include:

- (1) Encouraging individuals, organizations, and agencies to work jointly on watershed enhancement programs;
- (2) Cooperating with federal agencies and participating in enforcing rules and statutes governing federal riparian enhancement activities;
- (3) Coordinating the development of local watershed enhancement programs and projects; and
- (4) Coordinating the implementation of enhancement projects with the activities of the Natural Resources Division of the Oregon Department of Agriculture, and other affected local state and federal agencies.

695-25-050 Cooperation with, and Technical Assistance to, Local Governments

- (1) The Board shall place a high priority on cooperating with and providing technical assistance to participating agencies as prescribed in ORS 541.350 through 541.395.
- (2) The Board shall maintain information relating to watershed management and enhancement.
- (3) The Board shall coordinate its participation in periodic review of comprehensive plans with the Water Resources Department pursuant to provisions in the Department's certified state agency coordination program.

GOVERNOR'S WATERSHED ENHANCEMENT BOARD

TECHNICAL AND EDUCATIONAL ADVISORY COMMITTEES RULES

695-30-010 PURPOSE

The purpose of these rules is to describe the organization, terms of office, duties and responsibilities of the committees of the Governor's Watershed Enhancement Board.

695-30-020 TECHNICAL ADVISORY COMMITTEE

- 1) This continuing Committee shall consist of a person designated by each of the agencies or natural resource boards and commissions represented on the Board, and such other persons as designated by the Board. The Chairperson of the Board is ex-officio a member of the Committee.
- 2) The term of each member of the Committee will be established by the Board member representing the agency, board or commission.
- 3) The Committee shall elect one member to serve as chairperson of the Committee.
- 4) The Committee members shall serve without compensation from the Board for travel or per diem.
- 5) The Committee is responsible for:
 - a) Evaluating grant applications based upon the goals and objectives in ORS 541.350 et seq. and OAR 695-20-010 through 695-20-090 for watershed enhancement projects; and submitting recommendations for funding of the projects to the Board;
 - b) Supplying on-going advice to the Board and to project grantees in areas of each Committee member's expertise;
 - c) Referring grant applications of an educational nature to the Educational Advisory Committee for evaluation; and
 - d) Such other activities as requested by the Board.