

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

Governor's Watershed Enhancement Board Program Summary

1. Purpose

The Governor's Watershed Enhancement Board (Board) promotes and implements programs to restore, maintain and enhance watersheds in Oregon. The Board awards state funds to projects that enhance watersheds and that will serve as examples of the benefits of watershed restoration and protection. The program emphasizes cooperation among private citizens, local governments, and state and federal agencies. The Board coordinates development of local watershed enhancement projects and the implementation of approved projects among the parties involved. The Board also collects, produces, and distributes educational materials dealing with watershed restoration and management.

2. Authorization

ORS 541.350 through 541.395 establish a state policy on riparian area and watershed restoration and protection; the composition and duties of the Board; and, priorities and criteria for approving projects. (See Attachment 1)

OAR Chapter 695, Divisions 1, 10, 20, 25, and 30 establish rules to govern administrative procedures, the acceptance and processing of project grant applications, the Board's SAC Program, and organization and responsibilities of the Board's Technical and Educational Advisory Committees. (See Attachment 2)

3. Governor's Watershed Enhancement Board Activities

The Governor's Watershed Enhancement Board was created by the Legislature in 1987. The Board consists of 10 members. There are five members with voting privileges -- one each from state natural resources boards and commissions. The non-voting members represent other state and federal agencies. The Water Resources Department provides administrative support to the Board.

The Board's primary activities involve soliciting, evaluating, and approving watershed enhancement grant applications. Related activities involve distribution of grant monies and monitoring the progress and effectiveness of approved watershed enhancement projects. Funds are granted to individual project applicants as well as to soil and water conservation districts for subsequent distribution.

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.

4. Relationship to Land Use

The Governor's Watershed Enhancement Board grant management activities may qualify as a "program affecting land use" as described in OAR Chapter 660, Division 30 (Review and Approval of State Agency Coordination Programs) for the following reasons. First, the Board was established to maintain, enhance, and restore watersheds for the purpose of improving water quantity, water quality and habitat. These natural resources are mentioned throughout the Planning Goals -- one of the qualifying criteria for "agency rules and programs affecting land use." Goals 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) and 6 (Air, Water and Land Resources Quality) are particularly applicable to, and subject to impact by, the program.

Second, the Board's grant-related actions directly influence the management of land resources and site-specific projects which may, as a function of the benefits they provide, have the potential to significantly affect land use. In most cases, it is unlikely that projects funded by the Board would promote or require an actual change in land use or a local land use approval. However, the implementation of watershed enhancement projects can change the intensity of use(s) (i.e, grazing, cropping, or logging) to improve watershed conditions. The program discourages land management practices which affect local water quantity and quality adversely. Inappropriate season-long grazing, the dumping of waste into urban storm sewer systems, stream channelization, road construction in riparian areas, and vegetation removal exemplify practices that can damage water resources and should be addressed in local plans.

Board activities relating to watershed enhancement education and public awareness do not qualify as a program affecting land use as these are advisory and result in no plan or project construction.

Finally, none of the Board's activities are listed as permits subject to goal compliance and compatibility in OAR 660, Division 31.

5. Coordination and Compatibility Procedures

The procedures outlined in this section specify how the Board will assure that its actions that affect land use will comply with the Statewide Planning Goals and be compatible with acknowledged comprehensive plans pursuant to ORS 197.180.

Administrative rules (OAR 695, Divisions 20 and 25):

- A. Define "affected county" and "affected city."
- B. Require project grant applications to contain land use information from affected counties and cities (OAR 695-20-030 (1)(j)). Board staff shall provide a form with the application which, when completed, will indicate whether or not land uses supported by the proposed project are compatible with respective acknowledged comprehensive plans. This

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.

(4) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex, the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream.

(5) "Watershed" means the entire land area drained by a stream or system of connected streams such that all stream flow originating in the area is discharged through a single outlet. [1987 c.734 §1]

541.355 Policy. (1) The Legislative Assembly finds that:

(a) Each watershed in Oregon is unique and each requires different management techniques and programs.

(b) The initiative and implementation of riparian area restoration and management programs should be planned and implemented at the local level by persons or agencies that perceive the need and have the management responsibility for achieving the best solution for local watershed enhancement and improved land and water management.

(c) It is in the best interest of the state to restore and maintain and enhance its watersheds in order to protect the economic and social well-being of the state and its citizens.

(2) Therefore, the Legislative Assembly declares that:

(a) A goal of the people of the State of Oregon is to:

(A) Enhance Oregon's waters through the management of riparian and associated upland areas of watersheds in order to improve water quality and quantity for all beneficial purposes as set forth in ORS 536.310.

(B) Restore, maintain and enhance the biological, chemical and physical integrity of the riparian zones and associated uplands of the state's rivers, lakes and estuaries systems.

(C) Restore and enhance the ground water storage potential associated with healthy riparian area ecosystems.

(D) Improve the filtering capability of riparian areas to reduce nonpoint source runoff and improve water quality.

(b) In order to achieve this goal in the most cost-effective manner, the State of Oregon shall:

(A) Maximize the use of individuals and groups wishing to volunteer time and effort to watershed enhancement projects;

(B) Encourage private individuals and organizations and local, state and federal agencies to work jointly to conduct watershed enhancement programs; and

(C) Enforce statutes, rules and regulations that require federal land management agencies to exercise their management and trustee responsibilities to restore, maintain and enhance the riparian areas of the state. [1987 c.734 §2]

541.360 Watershed Enhancement Board; voting and nonvoting members; staff. (1) The Governor's Watershed Enhancement Board is created. The board shall consist of 10 members as set forth in subsection (2) of this section. The board shall elect one member of the board as chairperson. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2)(a) The five voting members of the board shall be the chairperson of each of the following boards or commissions, or a member of the board or commission designated by the commission to serve on the Governor's Watershed Enhancement Board in lieu of the chairperson:

(A) The Environmental Quality Commission;

(B) The State Fish and Wildlife Commission;

(C) The State Board of Forestry;

(D) The State Soil and Water Conservation Commission; and

(E) The Water Resources Commission.

(b) In addition to the voting members, the following persons shall serve as nonvoting members of the board and shall participate as needed in the activities of the board:

(A) The director of the agricultural extension service of Oregon State University, or designee; and

(B) The Director of Agriculture, or designee.

(c) In addition to the voting and nonvoting members designated in paragraphs (a) and (b) of this subsection, representatives of the following federal agencies shall be invited to serve as additional nonvoting members of the board: *

(A) A representative of the United States Forest Service.

(B) A representative of the United States Bureau of Land Management.

(C) A representative of the soil conservation service of the United States Department of Agriculture.

(3) The board shall use state agency employes 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

(c) Meet the criteria established by the board under ORS 541.390.

(7) The Governor's Watershed Enhancement Board may fund a project for the restoration of a riparian area or associated upland that is carried out in conjunction with a storage structure. However, the board shall not approve funding for any proposed project that consists solely of construction of a storage structure for out-of-stream use.

(8) If the Governor's Watershed Enhancement Board approves a project under this section that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body, the board shall not disburse any funds to the applicant until the applicant presents evidence that the agency has granted the permit or license. [1987 c.734 §7]

541.380 Rules. (1) In accordance with the applicable provisions of ORS 183.310 to 183.550, the Governor's Watershed Enhancement Board shall adopt rules and standards to carry out the watershed enhancement program.

(2) The rules and standards adopted by the board under subsection (1) of this section shall include, but need not be limited to:

(a) Criteria for selecting projects to receive assistance or funding from the board.

(b) Conditions for approval by the board for implementation of a project including but not limited to:

(A) Provisions satisfactory to the board for inspection and evaluation of the implementation of a project including all necessary agreements to allow the board and employees of any cooperating agency providing staff services for the board access to the project area;

(B) Provisions satisfactory to the board for controlling the expenditure of and accounting for any funds granted by the board for implementation of the project;

(C) An agreement that those initiating the project will submit all pertinent information and research gained from the project to the board for inclusion in the centralized repository established by the board; and

(D) Provisions for the continued maintenance of the portion of the riparian area or associated uplands enhanced by the project.

(c) The amount of funding that a local soil and water conservation district organized under ORS 568.210 to 568.805 can provide directly for a watershed enhancement project without prior approval of the board. [1987 c.734 §8]

541.385 Water Resources Department to provide staff for board. The Water Resources Department shall provide staff for project oversight and the day-to-day operation of the Governor's Watershed Enhancement Board, including scheduling meetings, providing public notice of meetings and other board activities and keeping records of board activities. [1987 c.734 §4]

541.390 Duties of Soil and Water Conservation Division. In addition to the duties conferred on the Soil and Water Conservation Division under ORS 561.400 and 568.210 to 568.805, the division shall:

(1) In cooperation with the Governor's Watershed Enhancement Board, provide appropriate personnel who, under the direction of the board, shall:

(a) Serve as community advisors to cooperatively develop watershed enhancement projects with volunteers; and

(b) Cooperatively evaluate watershed enhancement projects with those responsible for project implementation.

(2) Provide technical assistance to individuals responsible for implementation of a watershed enhancement project.

(3) Work with the Governor's Watershed Enhancement Board to coordinate the implementation of enhancement projects with the activities of other agencies, including but not limited to, those state and federal agencies participating in coordinated resource management planning. [1987 c.734 §9]

541.395 State agency reports to be provided to board. In order to assist the Governor's Watershed Enhancement Board in developing and maintaining a centralized repository under ORS 541.370, the following agencies shall provide the board with a copy of any report produced by the agency that is related to enhancement or restoration of riparian areas or associated uplands:

(1) The Department of Environmental Quality.

(2) The State Department of Fish and Wildlife.

(3) The Water Resources Department.

(4) The State Forestry Department.

(5) The State Department of Agriculture.

(6) The agricultural extension service of Oregon State University. [1987 c.734 §10]

USE OF WATER TO OPERATE WATER-RAISING MACHINERY

541.410 Wheels, pumps, engines, etc.; use by riparian owner to raise water; prior

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

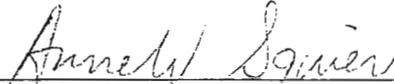
- (A) Agriculture, Dept. of
- (B) Environmental Quality, Dept. of
- (C) Fish and Wildlife, Dept. of
- (D) Forestry, Dept. of
- (E) Geology and Mineral Industries, Dept. of
- (F) Governor's Office, Asst. for Natural Resources
- (G) Health Division, Dept. of Human Resources
- (H) Land Conservation and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

- (d) News Media
(A) The United Press International
(B) The Associated Press
(C) Capitol Press Room
(D) Portland - The Oregonian
(E) Salem - Capitol Press
(F) Salem - Statesman-Journal
(G) Bend - The Bulletin
(H) Coos Bay - The World
(I) Eugene - Register-Guard
(J) John Day - Blue Mountain Eagle
(K) Klamath Falls - Herald and News
(L) La Grande - Observer
(M) Roseburg - News-Review
(N) Pendleton - East Oregonian
(O) Medford - Mail Tribune
(P) Union - Country Journal

Approved this 5th day of October, 1987 by:



Anne Squier, Asst. Attorney General
as required by ORS 183.341(4)

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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.

- (8) "Technical Advisory Committee" or "TAC", is a continuous committee of the Board comprised of designated personnel from the Oregon Departments of Forestry, Fish and Wildlife, Water Resources, Environmental Quality, Agriculture and the Oregon State University Extension Service; USDA Forest Service, USDI Bureau of Land Management, the USDA Soil Conservation Service and other members invited by the Board to participate in committee activities.

695-20-030 Application Requirements

- (1) Applications must be submitted on the form prescribed by the Board. The information contained in the application shall include:
 - (a) Names, addresses and telephone numbers of the applicant and contact person(s);
 - (b) Names and addresses of affected landowner(s);
 - (c) The name and location of the proposed enhancement project. The location shall be described in reference to the public land survey, county and stream mile;
 - (d) Description of the problem the project addresses, the project plan and project benefits;
 - (e) Estimated total project budget including the costs of project design, construction, monitoring and maintenance and the sources and amounts of funding; and the amount of GWEB funding requested;
 - (f) Identification of specific project elements for which GWEB funds will be used;
 - (g) A list of any federal or other funds, services or materials available or secured for the project and any conditions which may affect the completion of the project;
 - (h) Identification of volunteers and the work they will perform on the project;
 - (i) Evidence of appropriate authorization for access to the location to perform project work, maintenance and monitoring; and to

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).

- (3) Watershed enhancement projects not funded may be resubmitted during application submission periods prescribed by the Board.
- (4) Applications forwarded to the Board by soil and water conservation districts pursuant to the provision of OAR 695-20-030(3) will be reviewed in the manner of other applications for funding during times prescribed by the Board.

695-20-050 Evaluation of Projects Submitted for Board Funding

- (1) Project proposals must meet the following criteria to be considered for funding by the Board.
 - (a) The project demonstrates sound principles of watershed management;
 - (b) The project uses methods adapted to the project locale; and,
 - (c) The project complies with state land use planning goals and is compatible with acknowledged comprehensive plans as required under ORS 197.180 and the Board's State Agency Coordination Procedures Guide.
- (2) Projects meeting the criteria established by section (1) of this rule will be further evaluated on the basis of the extent to which the project:
 - (a) Enhances Oregon's waters through the management of riparian and associated upland areas of watersheds in order to improve water quality and quantity for all beneficial uses as defined by ORS 536.310;
 - (b) Restores, maintains, and enhances the biological, chemical and physical integrity of the riparian zones and associated uplands of the state's rivers, lakes and estuary systems;
 - (c) Restores and enhances the groundwater storage potential associated with a healthy riparian ecosystem;
 - (d) Improves the filtering capability of riparian areas to reduce non-point source runoff and improve water quality;

- (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

Board prior to the beginning of any work proposed in the modification.

- (4) The Board will consider project modifications including expansion of funded projects with moneys remaining from the original project allocation if the purpose and intent of the amendment remains the same as the original project, the proposed activity is within the same watershed, and the modification would be compatible with acknowledged comprehensive plans.
- (5) Modification proposals shall be filed and considered in the following manner:
 - (a) The Grantee shall file a written request for permission to amend or expand the project construction or the construction time schedule including the rationale for the requested amendment;
 - (b) The TAC and/or the EAC will review the request and notify the Grantee if additional information or documents are necessary;
 - (c) Staff shall send a report to the Board describing the proposed amendment and any recommendation on the proposed project change;
 - (d) The Board shall respond to staff within 15 days of mailing with comments or objections to the requested project change; and,
 - (e) The Board shall notify the Grantee in writing of the Board's decision on the proposed modification.
- (6) Staff may authorize minor changes within the scope of the original project plan.
- (7) Upon notice to the Grantee by certified or registered mail to the last known address, the Board may terminate funding for projects not completed in the prescribed time and manner. The money allocated to the project but not used will be available for reallocation by the Board.
- (8) The Grantee shall allow Board members or designated representatives access to the project area to monitor and evaluate the project.

- (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

submitted.

- (5) Except as provided in (6) of this rule, the Board shall retain 10 percent of project funds until the final construction report as required in OAR 695-20-080(1) has been submitted to the Board and the project has been evaluated for completion and compliance with the Grant Agreement.
- (6) Grants of less than \$2,000 will be funded in one payment when the Grantee provides evidence required by (4) of this rule without reservation of 10 per cent of the grant funds as otherwise required by (5) of this rule.

695-20-100 The Board may establish a fund with the Natural Resources Division of the Oregon Department of Agriculture for distribution to soil and water conservation districts for funding watershed enhancement projects.

- (1) The Division shall:
 - (a) Enter into an agreement with the Board for receipt and administration of the funds;
 - (b) Be responsible for distribution of the funds to local soil and water conservation districts, and for reporting to the Board on the distribution and use of the funds on a date specified by the Board;
 - (c) Prepare an application for interested parties to apply to districts for funding under OAR 695-20-100; and,
 - (d) Supply an appropriate number of copies of the above referenced application to local soil and water conservation districts and the Board. The application shall include the following information:
 - (A) A description of the proposed project for which funds are requested;
 - (B) Identification of the proposed project location, and names and addresses of affected landowners;
 - (C) Identification of all groups, volunteer and otherwise, participating in the project;

- (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.

695-20-105 Special Watershed Educational Project Grants

In addition to grants awarded under OAR 695-20-030 through 695-20-100, the Board may provide grants to agencies or organizations for educational projects to increase public awareness of watershed enhancement principles or provide training in watershed management concepts or techniques.

695-20-110 Evaluation of Watershed Enhancement Applications for Water Development Loan Fund Money

- (1) Applications for watershed enhancement project loans submitted to the Water Development Loan Fund (WDLF) under ORS 541.700, shall be transmitted by the WDLF to the Board for its recommendations.
- (2) The Board may suggest that a GWEB grant applicant apply to the WDLF for loan money if the Board determines the project may be suitable under the provisions of ORS 541.700.
- (3) Applications may be submitted to the Board under section (1) of this rule at any time and are not subject to the time restrictions on watershed enhancement project applications listed in OAR 695-20-040(1) and (3).
- (4) With the advice of the TAC, the Board's recommendations on applications submitted under ORS 541.700 shall be based on whether the proposed project meets the goals in ORS 541.355(2)(a); and the criteria in OAR 695-20-050(1)(a), (b) and (c).

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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.

695-25-025 Applicability

These rules shall apply to Board actions authorized and governed by OAR Chapter 695, Division 20, Applications and Procedures.

695-25-030 Compliance with Statewide Planning Goals

- (1) Except as provided in section (2) of this rule, Board actions shall comply with the Statewide Planning Goals by ensuring compatibility with acknowledged comprehensive plans as prescribed in these rules and OAR Chapter 695, Division 20.
- (2) The Board will adopt findings that its actions comply with the Statewide Planning Goals if:
 - (a) An acknowledged comprehensive plan does not contain:
 - (A) Requirements or conditions specifically applicable to a Board action; or
 - (B) General provisions, purposes, or objectives which would be substantially affected by the action; or
 - (b) Other conditions outlined in OAR 660-30-065 exist.

695-25-035 Compatibility with Acknowledged Comprehensive Plans

- (1) The Board shall assure that its actions are compatible with acknowledged comprehensive plans by complying with ORS 541.375(8) and following provisions established in OAR 695, Division 20. These provisions shall:
 - (a) Require grant applicants to obtain and submit land use information with the application package; and
 - (b) Preclude the distribution of grant awards until the planning directors of affected counties or cities verify that: the project is allowed by and compatible with comprehensive plans; and, all local land use approvals have been issued.
- (2) The Board shall avoid land use disputes with local government agencies following procedures prescribed in section (1) above. However, the Board shall provide for appropriate resolution measures as required by OAR 660-30-070(4) and (7) through (12) if warranted.

690-25-040 Assuring that New or Amended Rules and Programs Comply with the Goals and are Compatible with Acknowledged Comprehensive Plans

- (1) The Board shall examine proposals to amend or add to its rules and programs to determine if they affect land use as prescribed in OAR 660-30-005(2). The Board may approve supplementary criteria for use in making its determination.
- (2) The Board shall notify the Department of Land Conservation and Development and any local governments relying on the Board for goal compliance as provided in OAR 660-30-085 of all pending rule or program changes which are found to affect land use as described in section (1) of this rule. The notice shall describe:

- (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.

695-30-030 EDUCATIONAL ADVISORY COMMITTEE

- 1) This continuing Committee shall be comprised of one person designated by each of the agencies and natural resource boards or commissions represented on the Board and other persons designated by the Board with the intent to balance representation among groups with differing interests. Total membership shall be no more than 15. The Board Chair is ex-officio a member of the Committee.
- 2) The term of each member of the Committee will be established by the Board member appointed by each agency, board or commission or by the Board chairperson.
- 3) The Board Chair shall select a chairperson for the Committee.
- 4) Committee members shall serve without compensation from the Board for travel or per diem.
- 5) The Committee shall formulate and recommend to the Board for approval an educational policy and a program for increasing public awareness of watershed enhancement benefits. As part of the Board's educational program, the Committee shall:
 - a) Formulate rules in accordance with the educational policy approved by the Board in section 5 of this rule, for evaluating applications for grant funds for proposals of an educational nature and make funding recommendations to the Board;
 - b) Establish and maintain a centralized repository of educational and informational materials;
 - c) Formulate a long-range plan to publicize the Board's watershed enhancement program and to make available the information the Board collects from funded projects. Such a plan may include, among other items, creating video and slide/tape programs, brochures and other publications for promoting watershed enhancement concepts to the public;
 - d) Identify gaps in research or available information on watershed enhancement; and
 - e) Make available to project applicants and to the public a list of other sources of watershed enhancement project assistance, funding and volunteer labor for enhancement projects.