



Oregon Agricultural Heritage Commission Meeting Agenda

Thursday, February 22, 2018

Room 1868

152 NW 4th St.

Prineville, OR 97754

Directions: <https://goo.gl/maps/VTzC9K84hWK2>

For each agenda item, the time listed is approximate. The commission may also elect to take an item out of order in certain circumstances. During the public comment period at 11:30 a.m., anyone wishing to speak to the commission about the Oregon Agricultural Heritage Program (OAHP) is asked to fill out a comment request sheet (available at the information table). This helps the commission know how many individuals would like to speak and to schedule accordingly. Persons are requested to limit their comments to three to five minutes. Written comments will also be accepted on any item before the commission. Written comments from persons not attending the meeting should be sent to Nellie McAdams, nellie.mcadams@oregon.gov.

Welcome, Housekeeping, and Introductions (8:00 a.m.)

Vice-Chair Bruce Taylor and OWEB Executive Director Meta Loftsgaarden will welcome the commission and public. *Information item.*

Review and Approval of Minutes (approximately 8:10 a.m.)

The minutes of the February 1, 2018 meeting will be presented for approval. *Action item.*

Summary of Farm and Ranch Succession Planning (approximately 8:15 a.m.)

OAHP Coordinator Nellie McAdams will present key points from the commission's discussion at its February 1, 2018 meeting and present key questions for the commission to consider in refining the draft rules, including: the list of eligible organizations, the general methods for delivering the programs, the evaluation criteria, the reporting requirements, whether the rules should permit the commission to conduct evaluations of program effectiveness as measured by changes in succession and farmland ownership and use, whether match should be required, and how the program should solicit grant applications.

Conservation Management Plan (CMP) Rulemaking (approximately 9:40 a.m. – 3:00 p.m.)

The commission will discuss the contents of CMPs, the methodology for calculating payment for implementing CMP practices, the process for mutual modification of CMPs, and the monitoring requirements for the program. Staff will present an issue brief, and a technical committee will share their experiences implementing, researching, and creating rules for similar programs and receive questions from the commission. Committee members in attendance:

- **Amy Charette:** Watershed Restoration Coordinator at the Confederated Tribes of the Warm Springs Reservation of Oregon, John Day Basin Office

- **Tom Salzer:** General Manager of the Clackamas Soil & Water Conservation District
- **Laura Masterson:** Oregon Board of Agriculture member, OWEB Board member, East Multnomah Soil & Water Conservation District Director, and farmer at 47th Avenue Farm

For the remainder of the morning and afternoon, commission members will discuss:

- Key components of conservation management plans
- Match requirements
- Payment calculations
- Management plan terms (20-50 years)
- Conservation management plan modification
- Conservation management plan monitoring

Public Comment (11:30 a.m.)

Members of the public who have signed up to give public comment will speak to the commission about OAHP.

Lunch (12:00 p.m.)

Presentation and Questions for Dean Moberg (1:40 p.m.)

Dean Moberg, North Coast and Lower Willamette Basin Resource Conservationist at Natural Resources Conservation Service (NRCS), will speak about his experience with CMPs at NRCS and answer questions from the commission. *Information item*

Summary of Commission's Discussions and Vision for Rules (3:00 p.m.)

OAHC Facilitator Liz Redon will help the commission summarize the day's discussion and identify additional broad subjects that were not discussed today and are not on the agenda for the following meeting.

Final Summary and Next Meeting (3:15 p.m.)

The commission's next meeting on Thursday, March 8, 2018. *Information item.*



Oregon Agricultural Heritage Commission Meeting Minutes

Oregon Agricultural Heritage Commission (OAHC) Meeting
Thursday, February 1, 2018
Room 1868
152 NW 4th Street
Prineville, OR 97754

MINUTES FOR APPROVAL BY THE OREGON AGRICULTURAL HERITAGE COMMISSION

OAHC Members Present

Allen, Chad
Angima, Sam
Bailey, Ken
Bennett, Mark
Jackson, Nathan
Johnson, Derek
Krahmer, Doug
Loop, Lois
Neuhauser, Will
Taylor, Bruce
Wahl, Mary
Wolfe, Woody

OWEB Staff Present

Hungate, Cammi
Loftsgaarden, Meta
McAdams, Nellie
Redon, Liz
Williams, Eric

Others Present

Beamer, Kelley
Biddle, Alexis
Cushing, Tammy
Davee, Rachael
Flegel, Wade
Flegel, Zach
Gerel, Mike
Johnson, Jim
Kenagy, Peter
Kruse, Dylan
Martino, Amanda
Masterson, Laura
Rhoden, Russ

The meeting was called to order at 8:05AM.

A. Welcome, Housekeeping, and Introductions

OWEB Executive Director Meta Loftsgaarden invited the commission and members of the public, briefly explaining the origin, need for, and importance of the Oregon Agricultural Heritage Program (OAHP), HB 3249, which authorized the creation of the Oregon Agricultural Heritage Commission (OAHC). She thanked the commission for their time and dedication and the public for their engagement.

Meeting facilitator and OWEB Staff, Liz Redon, explained housekeeping measures, including time and procedure for public comment, and she facilitated OWEB staff, members of the commission, guest presenters, and the public in making brief introductions.

B. Oregon Agricultural Heritage Program (OAHP) 101

Meta Loftsgaarden and OAHP Coordinator Nellie McAdams described the agricultural and natural resource values that are at stake, the goals, of the program, and how the components of the statute are designed to support those values and address programmatic goals.

C. Community Visioning Exercise

Liz Redon led the commission in writing down what excites them most about being on the OAH Commission, and what about OAH or the commission gives them the most fear or concern. Commissioners then shared verbally what they believed to be the biggest “can’t-miss opportunities” for OAH. Doug Kraemer hoped to make OAH available to as many agricultural landowners as possible, which could be enhanced by generating landowner interest in the program. Lois Loop felt that the commission could also educate the general public on the economic and conservation values of agricultural land. Chad Allen hoped that the program could protect farmland, which is extremely important and being lost at too great a pace, and also help create positive relationships between agricultural and environmental communities. Ken Bailey wanted the commission to keep farm viability as an underlying goal, and Mary Wahl wanted the program to create mutual benefits for conservation and agriculture. Mark Bennett wanted the program to help landowners better utilize not only OAH’s programs, but also other existing programs that benefit farm/ranch viability and conservation. Similarly, Bruce Taylor wanted the program to help leverage additional federal funding.

D. Logistics

Meta Loftsgaarden and Nellie McAdams walked the commission through their materials, letting them know that they would receive new materials for each meeting to add under the appropriate meeting tab in their binders, and that general information is in the back of their binders. Meeting materials are also posted on the OAH website. They noted that, the “Roles and Responsibilities” document establishes consensus decision making as a goal of the commission, which they would discuss next.

E. Rulemaking and Consensus Decision Making

OWEB Grant Program Manager Eric Williams explained the rule making process and distinguished rules from guidance. Generally, rules include program requirements, while guidance might provide options or recommendations about how to comply with the requirements or improve the competitiveness of an application. Rules contain items about which there is relative certainty, since any changes would have to go through the rulemaking process.

For OAH, the OAH Commission will draft and recommend rules to OWEB’s Board, which will be the final decision maker. The OWEB Board will oversee the process and be updated throughout, especially by the *Ex Officio* OWEB Board member on the commission, Will Neuhauser, and Laura Masterson, who was a guest presenter. Once grant programs are being implemented, Technical Committees will review and rank grant projects using the OAH statute and rules as guidelines. It was recommended that after rulemaking meetings, OAH Commission meetings should be scheduled around the same time and at the same location as OWEB Board meetings in order for members to communicate and share a meal.

The commission asked Liz Redon to describe the rulemaking timeline and graphic that was scheduled for Agenda Item H. She explained how OWEB plans to structure the OAH Commission decision-making process. There will be four topics for rule making: succession

planning, conservation management plans, easements and covenants, and technical assistance. The commission would then discuss how all of these programs work together at their final meeting. Before each meeting's topic, the commission will hear a summary of an issue brief on the topic, they may hear from technical committees if they decide to create them, and then they will deliberate in small groups and together. They will not wordsmith drafts of rules, but will rather discuss high level policy issues that will inform draft rules, which the commission will review over email between meetings and discuss at the following meeting.

The commission decided not to vote on any of the rules until the very end. Instead, Liz will test their comfort with rules at the end of each discussion to see if commission members support or could live with the rules as drafted. The commission felt that this approach would make it less difficult to revisit earlier discussions of OAH rules as necessary.

Liz Redon also explained the consensus decision-making process. The commission generally felt that consensus decision-making would make their final decision(s) easier, especially if all prior decisions are open for discussion. Commissioners decided to include *Ex Officio* member Will Neuhauser in consensus processes, even though he will not have a vote on the final rules.

F. Commission Vote for Chair and Vice-Chair

Meta Loftsgaarden explained that the Chair and Vice-Chair would be a sounding board for OWEB between meetings, and would administer meetings with Liz Redon as timekeeper.

Ken Bailey moved to nominate Doug Krahmer as Chair. The motion was seconded by Dr. Sam Angima. There were no other nominations. The motion passed unanimously.

Derek Johnson moved to nominate Bruce Taylor as Vice-Chair. The motion was seconded by Nathan Jackson. There were no other nominations. The motion passed unanimously.

G. Overview of Rulemaking

Meta Loftsgaarden and Nellie McAdams explained that the "Sample Rule Headers" document is only a tool to assist the commission in thinking about what big picture questions they will need to address in rulemaking. It will be edited throughout the rulemaking process, and the commission is welcome to send Nellie feedback at any time.

H. Technical Committee

Meta Loftsgaarden and Nellie McAdams explained the commission's statutory authority to appoint advisory or technical committees on a permanent or temporary basis. Committees may be described as permanent or temporary, although any committee can be created or dissolved at the commission's discretion. The commission may also add or remove membership at their discretion. Meta and Nellie then presented the staff recommendation of four committees: OAH context, conservation management plan, easements and covenants, and technical assistance. Proposed technical committees and their membership are listed in the meeting materials.

The commission modified the staff proposal to:

- Add a Succession Planning Committee. The commission may add members going forward. This committee would assist not only with rulemaking but eventually with recommendations to the legislature.
- Add to the Conservation Management Plan Technical Committee someone representing an organization that has significant experience acquiring and holding agricultural working land easements.
- Add to, or confirm that the Easements and Covenants Technical Committee has someone who can ensure that agriculture and conservation work together.
- Keep the option open to add expertise to any of the proposed technical committees over time.

Mark Bennett moved to approve the staff recommendation as amended. The motion was seconded by Mary Wahl. Dr. Sam Angima opened the motion or discussion and asked what the downside would be to not appointing technical committees if their members could still present to the commission. OWEB staff explained that appointment of technical committees gives members greater clarity about their role and time commitment, and makes it easier for OWEB to support and reimburse the individuals. The motion passed unanimously.

I. Public Comment

Public comment was given by Wade Flagel and Zach Flagel about the importance of the program and succession planning. Their written comment is in OWEB's records.

J. OAHP Work Group and Statute Development

Kelley Beamer (Executive Director of the Coalition of Oregon Land Trusts), Mike Gerel (Director of Programs of Sustainable Northwest), and Dylan Kruse (Policy Director of Sustainable Northwest) presented on their role on the OAHP Work Group that developed the legislation that became OAHP. They described the collaborative efforts of agricultural and conservation groups, the work of these groups to pass the bill, and their ongoing commitment to the program. Laura Masterson (farmer and Director on the Board of Agriculture, OWEB's Board, and the East Multnomah Soil and Water Conservation District (EMSWCD)) presented on her work related to OAHP as the Chair of the Board of Agriculture's Land Use Committee and as a Director of EMSWCD, which has a land legacy program. All members extended their support to the commission in explaining nuances of the statute and offering insight into the structure of the program, as members of the newly created OAHP Context Technical Committee.

K. Succession Planning Rulemaking Overview

Meta Loftsgaarden and Liz Redon explained the critical role of succession planning within OAHP's suite of programs. They explained that, although the commission shall make funding recommendations to the legislature and in addition to recommendations of grant funding to OWEB's Board, they will be asked to limit today's discussion to rules for succession planning grants. Meta and Liz also explained that, although the statute allows grants to fund one-on-one

delivery of succession services, the commission would be asked to think about how to optimize programmatic resources.

Meta Loftsgaarden explained that the reason Section 10(2) names Oregon State University (OSU) Extension as a specific agent for delivering programs is that OSU Extension has an existing curriculum, network, and trust in the agricultural community that could be tested through OAHP. This mention in the statute does not preclude proposals from other entities, and the commission may change their focus over time.

L. Succession Planning Panel

OWEB Staff Nellie McAdams explained the issue brief in the commission's meeting materials. Although 64% (10.45 million acres) of Oregon's agricultural land is expected to change hands in the next twenty years, the vast majority of Oregon farmers and ranchers might not have a succession plan. Families that inherit land without a succession plan are more likely to incur higher attorney fees and Oregon estate tax and experience greater strife. This commonly leads to the sale of agricultural land and assets to pay bills on a short timeline without much liquidity. The fragmentation of Oregon's agricultural land makes it more vulnerable to development and being taken out of production, also putting its habitat values at risk.

Jim Johnson (Interim Department Head, Senior Associate Dean, and Program Leader of Oregon State University College of Forestry's Department of Forest Engineering, Resources, and Management) presented on their Ties to the Land Program. The curriculum was developed in Oregon, but is now being used around the United States. The program is committed to rolling out a third edition of the curriculum by the end of 2018, which will broaden the program to an agricultural audience and may include information about conservation easements. For participants in the program, 75% reported it was very useful, 97% said that they gained knowledge, and a year later 71% had taken the next step.

Tamara Cushing (Associate Professor at Oregon State University College of Forestry's Department of Forest Engineering, Resources, and Management) presented next. She has a specialty in estate planning and taxation, but also works with families on family dynamics. Her workshops can last from 1 or 2 hours to a full day. The goal is to help landowners take the next step forward.

The commission asked how Extension links to advisors, and whether the trainings for estate planners on charitable giving that are funded by the Oregon Community Foundation could be a model for similar trainings about farm and ranch succession, especially regarding how easements can be part of a plan.

M. Commission Discussion of Farm and Ranch Succession Planning Rule

Liz Redon facilitated the commission in sharing what they would most like someone to know who does not have familiarity with farm and ranch succession challenges. Commissioners stated that to be successful, succession planning must be a dynamic and ongoing process, yet it can be difficult for farmers and ranchers to begin the conversation. They might have difficulty

navigating their options and their attorneys and CPAs might not be well informed on the process. It also takes time and money that many families struggle to find.

Commissioners stated that even if farmers and ranchers begin the process, it can be difficult to divide the assets. They stated that “fair is not equal and equal is not fair” in dividing up an estate that includes a business, and that there should be fair compensation for the children who work on the farm or ranch, building the assets that will be part of the estate. Another consideration is that the sentimental value of some assets might outweigh their monetary value for some people, and that spouses can create complexity in dividing an estate.

In essence, commissioners recognized that three interests were at stake: the elder generation, the younger generation, and the business viability. There must be cash flow for each to have what they need, and this might include separating equity from decision-making authority. The younger generation must also be proactively asked if they want to take over the farm.

The commission recognized positive outcomes from succession planning, including the opportunity to bond as a family, allowing the next generation to innovate the business model, and potential increases in business viability by bringing in outside experts. It was noted that, although succession planning might be a primary driver for some landowners to convey conservation easements, it is not the only driver and the benefits of succession planning extend beyond long term natural resource conservation.

The commission then divided into three small groups to discuss four key policy questions for rules for an OAHP Succession Planning Grant Program:

1. What information does the commission want farmers, ranchers, and service providers who participate in OAHP Succession Planning grant projects to come away with?
2. What organizations should deliver this programming?
3. How should this programming be delivered?
4. How can the commission measure the success of these grant projects?

The small groups were relatively in agreement for their answers to these questions. Their recommendations are summarized below.

1. What information does the commission want farmers, ranchers, and service providers who participate in OAHP Succession Planning grant projects to come away with?

The following notes are from the small group facilitated by Meta Loftsgaarden:

- WHY they need to do succession planning – benefits analysis, risks/costs of no SP and how to address that
- What the toolbox is: counselor/facilitator, attorney, CPA, real estate
- Resources list - Recommendations of service providers
- Land use requirements and implications

- Business understanding and planning
- NOTE: engage CPAs for outreach, participation, and encouragement. CPA certification program?
- Train providers about tools, like easements
- Check back process
- Understanding state/federal applicable mandates
- Other local assets you can access – NRCS, FSA, land trust, SWCD – and train them at a high level too
- Landowner certification (century farm in progress)

The following are notes are from the small group facilitated by Eric Williams:

- List and understanding of options, including business structures (e.g. LLC), size of operation
- Better understanding of resources available, e.g. legal, accountant, family counseling
- List of vehicles for transferring assets and management responsibility
- Good understanding of realistic timelines
- Understanding of consequences of NOT doing it
- Understanding of the emotional ramifications
- Understanding of the needs of landowners – holistic plan for land
- Having a business plan regardless of what option they choose
- What are the components of a business plan, including conservation management plan
- Understanding of estate taxes and tax planning
- Understanding of how land use laws affect succession planning

The following notes are from the small group facilitated by Nellie McAdams:

- Landowner –
 - Clarify goals, outcomes and who participates in deciding
 - Elements of a succession plan
 - Steps to make the decisions
 - Flexibility
 - Referral list of service providers – how to narrow down, vet, and review? (website). Knowledge and confidence to end and seek new service providers if need be
 - Urgency – knowledge of consequences and benefits (also including lifestyle, conservation, business viability)
 - Family know the legal framework in simple and understandable way

- Family achieve consensus on goals
- with each generation, Discover new profit centers and cost savings, Innovation out of necessity
- Service provider training: CPA, attorney
 - Encourage them to serve these clients
 - How to reach people who are scared to start
 - Emotional counseling – for providers and connect them with others who can provide this resource

2. What organizations should deliver this programming?

The following are notes from the small group facilitated by Meta Loftsgaarden:

- Extension
- Professional organizations – CPA, lawyer
- Ag organizations, OFB, OCA, ODFA
- Nonprofits – Rogue Farm Corps
- Land trust (more conv. Here)
- SWCDs

The following are notes from the small group facilitated by Eric Williams:

- OSU Extension and universities
- Tax accountants and attorneys
- SWCDs and RC&Ds
- NRCS (?) and FSA
- Land Trusts
- Family counselors
- Tribal counselors and extension
- Commodity associations and farm bureau
- Financial advisors

The following are notes from the small group facilitated by Nellie McAdams:

- Not one group forever. Select 1-3 entities regularly and several ways for delivering services
- Keep list broad in rules and prioritize in guidance
- Regular (open) proposals, or invitation
- Perception of competence and anonymity, state agency info isn't anonymous/protected. Local trust and access

It was unclear whether watershed councils and agricultural commissions should be considered as eligible entities. This question will be asked at the subsequent meeting.

3. How should this programming be delivered?

The following are notes from the small group facilitated by Meta Loftsgaarden:

- Day-long events are tough
- Evenings
- Tied to existing events
- Workshops
- Mailings
- One-on-one consultation – needs strong measurement
- Multi- or web-based
- Multi-session (geography issues)
- Young farmer social media

The following are notes from the small group facilitated by Eric Williams:

- Workshops
- Grower meetings (e.g. extension presentations)
- Online training
- Educate tax attorneys, accountants, and family counselors
- Continuing education programs
- NGO supported kitchen table meetings

The following are notes from the small group facilitated by Nellie McAdams:

- Ask people how they want to learn and from whom
- Participation as a factor in ranking criteria for other OAHP programs (incentive)
- Partner with local groups for any project
- No one-on-one advising – not cost effective
- Set priorities annually or biennially

4. How can the commission measure the success of these grant projects?

The following are notes from the small group facilitated by Meta Loftsgaarden:

- Landowners engaged in and going through the process (during program and after)
- Landowners in program
- Number of outreach to landowners
- Number who have a plan (use ag stats)

- Number of landowners aware of options
- Succession plan used successfully (set baseline data NOW)
- (Farmgate receipts)
- CPAs and attorneys certified through program
- Change in landowners with appropriate business model for succession
- Multi-gen participation
- Farm age

The following are notes from the small group facilitated by Eric Williams:

- Surveys immediately and 1 year down the road
- How many accessed info – proxy measure
- Link to USDA/ODA farm surveys
- Survey those who don't have plans
- Assess viability of management plans as well as estate plans
- Baseline data needed to measure long-term success
- Consideration of form of ownership
- Number of trained attorneys/accountant/financial advisors
- Average age of farmers/ranchers (operators) – proxy
- Survey of succession plans five years later to see if updated/considered
- Number of farmland acres over time
- Number of farms
- Average acres of farms

The following are notes from the small group facilitated by Nellie McAdams:

- Participation – meetings, people, people saying they'll take specific steps,
- Changed behavior,
 - people who took action later,
 - Written succession plan (ACEP-ALE ranking criteria. For OAHP too?)
- Survey a year later
- Economic
- USDA census
- Change in sole proprietorship
- Where meetings were held - Widespread around Oregon
- Inquiries to eligible entities

- Ag land kept in ag and less Fragmentation – how to measure and is this too much to ask of succession planning or the grantees?
- Farm viability – too far downstream and hard to measure?
- Research - if you have a plan is land more likely to be in ag and viable for the next generation
- Next generation coming back to farm – demonstrate commitment in writing. Other non-family coming to farm

Commissioners discussed measuring the impact of this program on the state’s agricultural community as a whole. These questions might not be a fit for grant applicants to include in their grant report, but the commission expressed interest in setting a baseline for succession preparedness in Oregon and tracking it over time.

These metrics could be established through existing USDA or ODA data for Oregon and each of Oregon’s counties:

- The average age of Oregon farmers and ranchers
- The percentage of beginning farmers and ranchers
- Data on multi-generational participation in a farm operation
- The way in which Oregon farm and ranch business entities are organized, e.g. sole proprietorships
- The number of acres in agriculture
- The number of farms and ranches
- The average size of Oregon farms and ranches
- The average parcel size in Exclusive Farm Use zoning as a measurement of fragmentation
- Farm gate receipts or another measure of business viability, although some small groups felt that this proxy might be misleading or too far downstream from the projects that would be funded by the program.

The following information would require an additional study:

- Survey of Oregon farmers and ranchers on the status of their succession plans
- How do trends in farmland ownership and use vary depending on the status and implementation of a succession plan?
- Later on, address barriers to entry for beginning farmers and ranchers

N. Final Summary and Next Meeting

Liz Redon informed the commission that their discussion would be organized into draft rules for their review over email. They should send comments directly to Nellie McAdams, who will compile them. The next meeting on February 22 will include a final discussion of the succession

planning grant program rules in the morning, followed by the first discussion of conservation management plan rules.

The meeting adjourned at 3:30pm.

O. Parking Lot

OAHC Process:

- After rulemaking meetings, some OAHC meetings should be scheduled around the same time and at the same location as OWEB Board meetings in order for members to communicate and share a meal.
- Propose Technical Committee members as described above.

Current Actions:

- Inform soil and water conservation districts about OAHP's conservation management plan, easement, and covenant programs so that they can determine if they would like to apply for technical assistance grants in the future.

Future Research:

- Consider the research questions posed by the commission to establish the long-term impacts of the succession planning grant program.



Issue Paper: Conservation Management Plan contents, payment, modification, monitoring, and enforcement

Problem Statement

Section 4 of the Oregon Agricultural Heritage Program (HB 3249) establishes a grant program for conservation management plans (CMPs) “for the **purpose** of developing and implementing conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural owner or operator.” The **provisions** in these CMPs may address “soil, water, plants, animals, energy and human need considerations” or other priorities related to natural resource values.

The program is available to **agricultural owners or operators** (statutorily defined as “a landowner, operator, manager or other person having responsibility for exercising control over the day-to-day operation of a farm or ranch”) who enter into a CMP with any **organization** that is: defined in ORS 271.715 except state agencies, a watershed council, or a 501(c)(3) nonprofit.

Agricultural owners or operators who enter CMPs with an organization under this program will be **paid annually** to carry out the CMP for 20 to 50 years. Unlike the statute’s requirement for working land covenants, CMP rules are not *required* to specify three or more permissible terms of years between 20 and 50 years. However, CMP rules *may* include permissible terms of years.

The statute requires that CMPs receive regular reviews, provide flexibility, and “allow for **mutual modification** as necessary to reflect changes in practices or circumstances.” CMPs funded under OAHP must “[p]rovide for regular **monitoring** by the organization to ensure that the agricultural owner or operator is adhering to the plan.” Annual payments are contingent upon this adherence.

Decision Statement

Today, the Oregon Agricultural Heritage Commission will engage in a policy discussion on:

1. The **contents** of a conservation management plan under OAHP;
2. How OAHP should calculate **payment** for implementation of CMPs;
3. When and how to engage in **mutual modification** of CMPs;
4. The **monitoring** requirements and consequences for non-compliance;
5. The **match** requirements for CMPs; and
6. The permissible **terms of years** for CMPs.

The commission will be presented with draft language between today and the next meeting on Thursday, March 8. At the March 8th meeting, the Oregon Agricultural Heritage Commission will discuss the ranking criteria for CMPs with and without an associated working land covenant or easement, and how best to integrate the CMP with other OAHP, OWEB, and other programs.

Appendix A: Summary of the Conservation Reserve Enhancement Program (CREP) in Oregon

Program Overview

The Oregon Conservation Reserve Enhancement Program (CREP) is a cooperative venture between the State of Oregon and the U.S. Department of Agriculture Farm Services Agency (FSA), with support from the Natural Resources Conservation Service (NRCS), soil and water conservation districts, watershed councils, and other regional partnership organizations. The purpose of the program is to restore, enhance, and maintain streamside areas along agricultural lands to benefit fish, wildlife, and water quality.

Landowners can elect to enroll eligible acreage for a contract period between 10 and 15 years. During the contract term, these eligible acres are taken out of agricultural production and reserved for conservation. In return, landowners receive financial incentives for implementing approved conservation plans, including conservation measures, such as planting trees and shrubs in riparian areas, installing fencing, and developing livestock watering facilities.

What Financial Incentives Does CREP Offer?

There are a variety of annual rental payments, one time incentive payments, and cost-share reimbursements for landowners enrolled in CREP. The maximum annual non-cost-share payment limitation is \$50,000 per eligible person.

- 1. Annual Rental Payments:** The maximum payment rate per acre for Oregon CREP is calculated for eligible cropland and marginal pastureland is primarily based on the current posted dryland soil rental rates. If a landowner with a water right elects to lease or transfer their water right to instream uses for the duration of their CREP contract, they are eligible to receive an irrigated rental rate (4X the base rental rate).
- 2. Incentive Payments:** CREP participants are eligible for one-time payments on specific conservation practices. Signing incentives are paid at the time of contract approval. Practice incentives are paid after practice completion. Cumulative Impact payments are made to active CREP participants when a minimum of 50% of the streambank within a 5-mile stream segment are enrolled into CREP. Incentive payments are considered non-cost-share and are subject to the \$50,000 maximum annual payment.
- 3. Cost-Share on Eligible Conservation Practices:** Upon proof that the conservation practices have been implemented per the conservation plan, landowners receive reimbursement for 75% of the cost of the practices up to the maximum rate (this is different for each practice), with 50% federal cost-share from FSA and 25% cost-share from the state.

OAHC Considerations: CREP is based on the relatively simple concept of paying landowners to take cropland out of production and to implement conservation practices, but getting to a fully executed contract is quite complex. At the state level, a 1000+ page document provides a series of conditions, exceptions, calculations, and examples as guidance, which is then interpreted at

the county level by each CREP program. This can lead to inconsistencies and inequalities in how the program is managed across the state. Some questions that the OAH Commission might consider are:

- how to calculate payments in a manner that is easy to understand, representative of the value of the conservation benefits being gained, and transparent to landowners, program partners, and the public?
- whether incentive payments are necessary and, if so, what conservation benefits might warrant incentives?
- how payments will be tracked and who will be responsible for tracking them?
- how to ensure that landowners have equal opportunity for participation across the state?
- whether landowners should contribute through match or cost-share?

How Are CREP Contracts Monitored?

Once a conservation practice has been implemented, a site visit is done to verify that it was completed to the plan specifications, and the practice is certified as complete. Once complete, annual rental payments can begin and cost-share can be processed and issued. CREP technicians in the counties informally monitor conservation practices, and formal “spot checks” and “status reviews” are required.

Status Reviews: NRCS completes annual status reviews on up to 10 percent of all contracts until all practices in the plan are applied and the approved cover is established. The review documents progress of the practice establishment including, implementation of the approved conservation plan, condition of installed practices, need for revisions, and need for additional assistance.

Spot Checks: FSA conducts annual on-the-ground spot checks on up to 10 percent of the contracts in place that have been certified as complete during their final status review. Spot checks verify that the practices are in place and being maintained in a satisfactory manner. This includes, for example, verifying that cover is maintain, weeds are controlled, and no unauthorized haying or grazing has taken place.

OAH Considerations: Monitoring is critical to understanding whether conservation practices have been implemented and are being maintained. Unfortunately, with so few CREP contracts having annual spot checks, it is common to get to the end of a contract term and find that maintenance has been inadequate. This can result in the contract no longer meeting practice specifications and therefore no longer being eligible for re-enrollment. What could have been a simple compliance issue to be corrected during the life of the contract becomes an eligibility issue with the landowner potentially owing funds back to USDA. Monitoring is also important to determine whether a particular practice is providing the anticipated conservation benefit. On-the-ground monitoring is time and labor intensive. The OAH Commission might consider:

- the staff time and expertise needed to complete monitoring.
- what information would be useful and feasible to gather and at what frequency?
- whether it is appropriate for some monitoring to be self-reported by landowners?
- what are potential consequences if plans are not being implemented or practices not appropriately maintained?

CREP Conservation Plan Modifications

CREP Conservation Plans contain the required elements listed in Attachment A. Approved CREP Conservation Plans can be modified in the following ways:

- adding, modifying, or changing a conservation practice so long as there is an equal or greater lifespan and equal environmental benefit index value;
- scheduling reapplication of a practice;
- reflecting change in ownership; or
- implementing other non-cost share measures on land already seeded to an acceptable cover (such as practices that enhance erosion control, water quality, wildlife, other types of cover).

OAH Considerations: CREP contract terms are considerably shorter (10-15 years) than the 20 to 50-year OAH term duration. The OAH Commission might consider:

- what events might trigger the need for modification?
- beyond trigger events (e.g., change of ownership, adding a conservation practice), should conservation management plans be reviewed at regular intervals throughout the 20- to 50-year term? If so, at what frequency should plans be reviewed and who should review them?
- should review criteria be developed for ease of review and consistency?
- if modifications are made, should payment adjustments be made?

Attachment A: Approved CREP Conservation Plan Required Elements

From FSA Handbook, Agricultural Resources Conservation Program for State and County Offices
2-CRP Handbook (Rev. 5) Amend. 31

B Plan Requirements

An approved conservation plan:

- includes all of the eligible acres offered for CRP
- prohibits harvesting or grazing of CRP acreage for the life of CRP-1

Exception: Managed or emergency haying or grazing.

- has suitable planned cover for the soil types enrolled
- includes practices required for the establishment of permanent cover
- contains the practices necessary for the successful establishment and maintenance of the approved cover on all acres enrolled
- contains practices necessary to control weeds, insects, and pests
- encourages the best method for maintenance of the approved cover, such as prescribed burning or other options
- contains required management activities
- is technically adequate for achieving CRP objectives
- meets the specific environmental objectives of CPA if applicable
- *--ensures that the CRP cover will not be disturbed during the primary nesting season for birds in the local area that are economically significant, in significant decline, or conserved according to Federal or State law, as determined by FSA STC in--* consultation with the State Technical Committee

Note: See paragraph 427.

- *--ensures NEPA and other requirements have been met, see subparagraph 367 F.--*
- includes engineering plans.

C Conservation Plan Map

The conservation plan map shall show the number, field boundaries, easements, and acres, as identified by FSA. The land use shall be identified as “Cropland-CRP-Cover type.”

D Additional Material to Include in the Conservation Plan

In addition to the material outlined in the National Planning Procedures Handbook, the conservation plan shall include information or job sheets on the following:

- vegetative or cover establishment
- herbicides, insecticide, or mechanical weed control.

Division XXX

Farm and Ranch Succession Planning Grants

XXX-XXX-XXXX

Purpose

The Oregon Agricultural Heritage Commission (Commission) shall provide funding recommendations to the Legislative Assembly, or recommendations for grant funding to the Oregon Watershed Enhancement Board (Board), to provide training and support to owners of working land, or persons advising owners of working land, regarding succession planning for the lands.

XXX-XXX-XXXX

Definitions

- (1) Succession Planning
- (2) *Additional definitions to be determined.*

XXX-XXX-XXXX

Succession Planning Priorities

The Commission may establish priorities for the Farm and Ranch Succession Planning Program in guidance, which may be used to solicit and rank program grant proposals and make recommendations to the legislature. The commission may modify these priorities from time to time at its discretion.

XXX-XXX-XXXX

Eligibility

Eligible applicants for Farm and Ranch Succession Planning Program Grants may be the Oregon State University Extension Service, universities, colleges, community colleges, non-profits including land trusts and agricultural organizations and professional organizations that represent succession planning or business service providers, or soil and water conservation districts.

XXX-XXX-XXXX

Application Requirements

Farm and Ranch Succession Planning grant applications shall:

- (1) Be consistent with general program guidance {similar to ORS XXX Division 005}.
- (2) Not require match contributions.
- (3) Be submitted on the most current form and process prescribed by the commission.
- (4) Other application requirement in general administrative section.

XXX-XXX-XXXX

Evaluation Criteria

Farm and Ranch Succession Planning grant applications will be evaluated on:

- (1) The extent to which the application demonstrate a clear succession planning benefit for Oregon farmers and ranchers;
- (2) The extent to which the application utilizes methods identified by the Commission including, but not limited to, outreach about the importance of succession planning and available resources; trainings for farmers, ranchers, and succession service providers; development and distribution of training materials and curriculum; and advising of farm and ranch families on succession planning options ;
- (3) The extent to which the application reaches diverse audiences, commodities and geographies.
- (4) The commission may also consider if a suite of given projects combine to reflect (3).

XXX-XXX-XXXX

Farm and Ranch Succession Planning Grant Application Technical Review and Funding Process

- (1) Technical review of Farm and Ranch Succession Planning grant applications shall occur based on information provided in the grant application.
- (2) Applications shall be evaluated according to criteria described in OAR XXX-XXX-XXX.
- (3) The Commission may use technical committees to evaluate Farm and Ranch Succession Planning grant applications.
- (4) If a technical committee is used, the technical committee shall provide funding recommendations to OWEB staff. OWEB staff will review technical committee recommendations and provide recommendations to the Commission.
- (5) The Commission may rank projects and shall provide funding recommendations to the Board.
- (6) The Board may fund a grant application in whole or in part.

XXX-XXX-XXXX

Grant Agreement Conditions

- (1) The Grantee must submit a report at completion of the project describing the work completed.
- (2) The Grantee must agree to complete the project as approved by the Board and within the timeframe specified in the grant agreement unless proposed modifications are submitted and approved by the Director prior to the beginning of any work proposed in the modification.
- (3) The Director 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.

XXX-XXX-XXXX

Grant Reporting Requirements

- (1) Upon project completion, the Grantee will provide the commission and OWEB's Board with a copy of the project completion report. Final project accounting and reporting are due no later than 60 days following the project completion date.
- (2) The project completion report and annual reports shall demonstrate how the Grantee's funded project(s) demonstrated clear succession planning benefits to Oregon farmers and ranchers and their service providers. Evidence of this may include, but is not limited to:
 - (i) The number of people who participated in the program
 - (ii) The geographic and other demographic diversity of participants in the program
 - (iii) Documented improved understanding of farm and ranch succession
 - (iv) Documented changes in behavior of participants, including the percentage or number of farmer and rancher participants who take the next step toward succession planning, complete a plan, and implement the plan.
- (3) The OWEB Director may authorize an independent performance audit of any Farm and Ranch Succession Planning Program Grantee, and if the Director determines the Grantee is not complying with the rules of the Farm and Ranch Succession Planning Program, may restrict future grant funds.
- (4) In addition to project evaluations, the commission may conduct program evaluations that may include changes in USDA Census of Agriculture or similar data that would indicate a change in adoption of succession planning, surveys of farmers and ranchers on the status of succession plans, and other trends in farmland ownership and use.

XXX-XXX-XXXX

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division XXX unless required by statute, when doing so will result in more efficient or effective implementation of the Farm and Ranch Succession Planning Grant Program. Any waiver must be in writing and included in the grant file to which the waiver applies. The administrative rules for Farm and Ranch Succession Planning Grants shall be periodically reviewed by the Commission and revised as necessary and appropriate.



Oregon Agricultural Heritage Commission

Thursday, February 22, 2018



Succession Planning Rules

Notes from February 1, 2018 meeting

Succession Planning Questions

- ▶ What should farmers, ranchers, and service providers come away with?
- ▶ Who should deliver programs?
- ▶ How should programs be delivered?
- ▶ How can success be measured?

1. What should farmers, ranchers and service providers come away with?

The draft rules describe the purpose as the statutory purpose:

The Oregon Agricultural Heritage Commission (Commission) shall provide **funding recommendations to the Legislative Assembly**, or recommendations for **grant funding to the Oregon Watershed Enhancement Board (Board)**, to provide training and support to owners of working land, or persons advising owners of working land, regarding succession planning for the lands.

2. Who should deliver programs?

- ▶ Oregon State University Extension Service,
- ▶ Universities,
- ▶ Colleges,
- ▶ Community colleges,
- ▶ Non-profits including **land trusts and** agricultural organizations and professional organizations that represent succession planning or business service providers,
- ▶ Soil and water conservation districts

3. How should programs be delivered?

methods identified by the Commission including, but not limited to:

- ▶ **Outreach** about the importance of succession planning and available resources;
- ▶ **Trainings** for farmers, ranchers, and succession service providers;
- ▶ Development and distribution of **training materials and curriculum**; and
- ▶ **Advising** of farm and ranch families on succession planning options

4. How can success be measured?

how the Grantee's funded project(s) demonstrated **clear succession planning benefits** to Oregon farmers and ranchers and their service providers. Evidence of this may include, but is not limited to:

- ▶ The **number** of people who participated in the program
- ▶ The geographic and other demographic **diversity** of participants in the program
- ▶ Documented **improved understanding** of farm and ranch succession
- ▶ Documented **changes in behavior** of participants, including the percentage or number of farmer and rancher participants who take the next step toward succession planning, complete a plan, and implement the plan.

Additional: Program Success

In addition to project evaluations, the commission may conduct **program evaluations** that may include:

- ▶ changes in **USDA Census of Agriculture** or similar data that would indicate a change in adoption of succession planning,
- ▶ **surveys** of farmers and ranchers on the status of succession plans, and
- ▶ **other trends** in farmland ownership and use.

Additional: Administrative Rules

Administrative division of OAHP rules, similar to OWEB's Division 5 for grant programs.

Expect a chart of rule sections for each program at next meeting.

Succession Planning - Who? Eligible entities

- ▶ Oregon State University Extension Service,
- ▶ Universities,
- ▶ Colleges,
- ▶ Community colleges,
- ▶ Non-profits including **land trusts and** agricultural organizations and professional organizations that represent succession planning or business service providers,
- ▶ Soil and water conservation districts

Add watershed councils and agricultural commodity commissions?

Succession Planning - How? Permissible projects

methods identified by the Commission including, but not limited to:

- ▶ **outreach** about the importance of succession planning and available resources;
- ▶ **trainings** for farmers, ranchers, and succession service providers;
- ▶ development and distribution of **training materials and curriculum**; and
- ▶ **advising** of farm and ranch families on succession planning options

Are these the only general categories to include? Should any not be included?

Succession Planning - Evaluation

- ▶ The extent to which the application demonstrate a **clear succession planning benefit** for Oregon farmers and ranchers;
- ▶ The extent to which the application utilizes **methods** identified by the Commission including, but not limited to, outreach about the importance of succession planning and available resources; trainings for farmers, ranchers, and succession service providers; development and distribution of training materials and curriculum; and advising of farm and ranch families on succession planning options;
- ▶ The extent to which the application reaches **diverse audiences, commodities and geographies**.
- ▶ The commission may also consider if a **suite of given projects** combine to reflect (3).

Are these the only general categories to include? Should any not be included?

Succession Planning – Success Evaluation Criteria

how the Grantee's funded project(s) demonstrated **clear succession planning benefits** to Oregon farmers and ranchers and their service providers. Evidence of this may include, but is not limited to:

- ▶ The **number** of people who participated in the program
- ▶ The geographic and other demographic **diversity** of participants in the program
- ▶ Documented **improved understanding** of farm and ranch succession
- ▶ Documented **changes in behavior** of participants, including the percentage or number of farmer and rancher participants who take the next step toward succession planning, complete a plan, and implement the plan.

Are these the only general categories to include? Should any not be included?

Succession Planning – Tracking Research and Data for Program Success

In addition to project evaluations, the commission may conduct **program evaluations** that may include:

- ▶ changes in **UDSA Census of Agriculture** or similar data that would indicate a change in adoption of succession planning,
- ▶ **surveys** of farmers and ranchers on the status of succession plans, and
- ▶ **other trends** in farmland ownership and use.

Does the commission want to include this provision? Modify it?

Succession Planning - Match

Should there be a match requirement?

If so, what percent and how much can be in-kind?

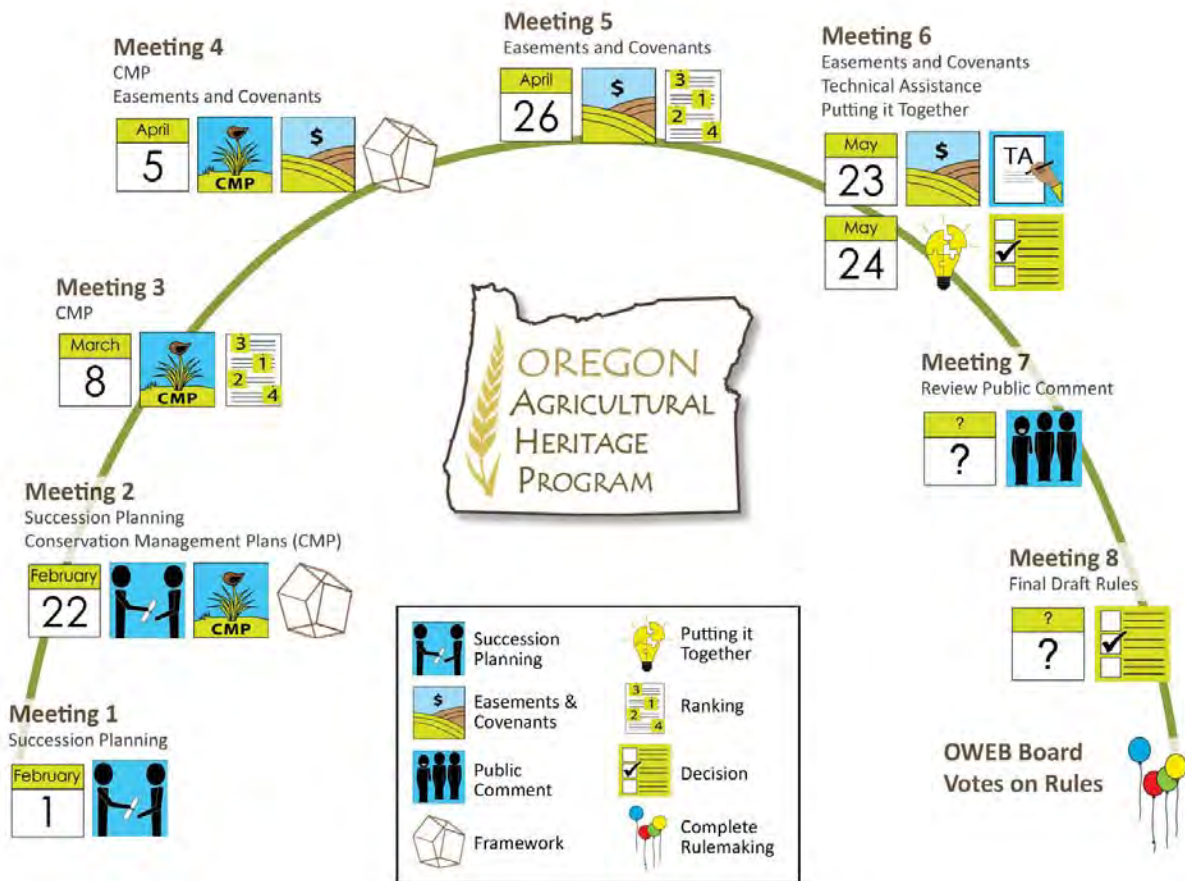
Succession Planning - **Project Solicitation** Open, Invitation Only, or Combination?

How should the commission solicit applications?

Open solicitation?

By invitation only?

A combination thereof?



Conservation Management Plan (CMP) Questions for Today

1. Match requirements;
2. The permissible terms of years for CMPs;
3. Contents of a conservation management plan (CMP);
4. How OAHP should calculate payment for implementation of CMPs;
5. When and how to engage in mutual modification of CMPs; and
6. Monitoring requirements

Conservation Management Plan Statute

- ▶ **Purpose:** developing and implementing conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural owner or operator
- ▶ **Annual payments** for 20-50 years to implement a CMP, contingent upon adherence to the plan
- ▶ **Mutual modification** as necessary to reflect changes in practices or circumstances
- ▶ **Monitoring** to ensure that the agricultural owner or operator is adhering to the plan

Conservation Reserve Enhancement Program (CREP)

Basics

- ▶ Administered by FSA with support from NRCS and SWCDs
- ▶ Cost-share
- ▶ 10-15 years
- ▶ Land taken out of agricultural production and reserved for conservation
- ▶ Financial incentives for implementing approved conservation plans

CREP: CMP Contents

- ▶ Describes acres
- ▶ Prohibits harvesting or grazing
- ▶ Provides for soil cover, especially for birds of economic or other significance
- ▶ Practices to control weeds, insects, and pests
- ▶ Required management activities
- ▶ Meets NEPA requirements
- ▶ Map with boundaries, acres, easements, etc.
- ▶ Job sheets on:
 - ▶ Vegetative or cover establishment
 - ▶ Herbicides, insecticides, or mechanical weed control

CREP: Payment

- ▶ Maximum of \$50,000 per person per year
- ▶ Three types of payment:
 - ▶ Annual rental per acre
 - ▶ Incentive Payments
 - ▶ Cost-share on eligible conservation practices:
 - ▶ Upon proof of completion
 - ▶ 75% reimbursement, with 50% NRCS and 25% state

CREP: Monitoring

- ▶ Spot checks by FSA: 10% of projects annually
- ▶ Status reviews by NRCS: 10% of projects annually

CREP: Modifications

May be modified to:

- ▶ Add, modify, or change a practice, if \geq lifespan and environmental benefit
- ▶ Reapply a practice
- ▶ Reflect change in ownership
- ▶ Add other non-cost-share measures

CMP Technical Committee

- ▶ **Amy Charette:** Watershed Restoration Coordinator at the Confederated Tribes of the Warm Springs Reservation of Oregon, John Day Basin Office
- ▶ **Tom Salzer:** General Manager of the Clackamas Soil & Water Conservation District
- ▶ **Laura Masterson:** Oregon Board of Agriculture member, OWEB Board member, East Multnomah Soil & Water Conservation District Director, and farmer at 47th Avenue Farm

CMP: Facilitated Discussion

How would the following groups answer the question:

What is a CMP and what does it entail/include?

- ▶ An agricultural owner or operator
- ▶ An advocate for conservation and habitat interests
- ▶ An organization holding a CMP
- ▶ According to the statute

Conservation Management Plan (CMP) Questions for Today

1. **Match** requirements
2. The permissible **terms of years** for CMPs.
3. **Contents** of a conservation management plan (CMP)
4. How OAHP should calculate **payment** for implementation of CMPs
5. When and how to engage in **mutual modification** of CMPs
6. **Monitoring** requirements



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Conservation plans: successes and failures through the years



- **Modifications**
- **Monitoring**
- **Components**
- **Payments**
- **Leadership**



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Modifications (essential)



- **Technology**
- **Concerns**
- **Costs**



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Modifications (what fits CMP)



- **Useful fit: Wetland Reserve, Highly Erodible Land**
 - Easy modifications for adaptation (HEL)
 - But consistent long term plan to avoid mercurial changes in scope
- **Less useful fit: early Conservation Stewardship**
 - All or nothing
 - Few choices
 - Some financial penalty better than termination
 - Make it easy on staff who make decisions



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Monitoring (compromises)

- **Outputs versus outcomes**
 - Mile of riparian forest vs water temperature
 - Both important
- **Qualitative versus quantitative**
 - Phosphorus index vs P concentration in stream
 - Both useful
- **Modeled versus measured**
 - Soil conditioning index vs wet aggregate stability test
 - Both informative



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Monitoring (what fits CMP)



- **Useful fit: Conservation Stewardship Program**
 - Clients take pride in some data collection
 - Informative to client and agencies
- **Useful fit: Enhanced CREP**
 - Third party quantitative compared to standardized objectives
 - But expensive and desired conditions are different across state
- **Less useful: HEL**
 - Random spot checks okay, but workload is difficult
 - Farmers disinterested?



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Payments (what fits CMP)



- **Useful fit: modern EQIP**
 - 50% of average costs
 - But cost calculations subjective for some components (mobilization, labor)
- **Useful fit: Enhanced CREP**
 - Turn key approach good for riparian forest buffers
 - But expensive and doesn't fit crop management practices
 - Somewhat based on supply and demand
- **Less useful: old ACP**
 - Big workload, not necessarily more accurate



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Leadership (what fits CMP)



- **Useful: Locally led**
 - E.g. EQIP and local work groups
 - Tie in with ag industry
- **Tie in with other programs to share costs, methods**
 - E.g. Enhanced CREP
 - NRCS standards and analysis tools
- **Plan ahead re NEPA, cultural resources**



And justice for all



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