



Oregon Agricultural Heritage Commission Meeting Agenda May 23 and 24, 2018

Wednesday, May 23, 2018

Room 1868

152 NW 4th Street

Prineville, OR 97754

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

The time listed for each agenda item 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 3 to 5 minutes. Written comments will also be accepted at any time before the commission meeting. 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.)

Chair Doug Kraemer will welcome the commission and public. *Information item.*

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

The minutes of the April 5, 2018 meeting will be presented for approval. *Action item.*

Conservation Management Plan (CMP) Ranking Criteria (approximately 8:15 a.m.)

OAHP Coordinator Nellie McAdams will present revisions to draft rules resulting from the commission's discussion at its April 26, 2018 meeting.

Covenants and Easements Ranking Criteria (approximately 9:15 a.m.)

The commission will discuss and refine ranking criteria from the commission's discussion at its April 26, 2018 meeting.

Covenants and Easements Draft Rules (approximately 10:15 a.m.)

The commission will discuss and refine Easement and Covenant draft rules from the commission's discussion at its April 26, 2018 meeting.

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.)

Technical Assistance Draft Rules (approximately 1:45 p.m.)

OWEB staff will introduce Technical Assistance Grant draft rules, and the commission will discuss and refine rules.

Summary of Discussion, Location in the Process, and Next Meeting (3:15 p.m. to 3:30 p.m.)

OAHC Facilitator Liz Redon will help the commission summarize the day's discussion and identify next steps in the commission's process.

Thursday, May 24, 2018

Room 1868

152 NW 4th Street

Prineville, OR 97754

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

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

Chair Doug Kraemer will welcome the commission and public. *Information item.*

Covenants and Easements Draft Rules (approximately 8:10 a.m.)

The commission will discuss and refine the Covenant and Easement draft rules from the commission's discussion at its May 23, 2018 meeting.

Technical Assistance Draft Rules (approximately 9:15 a.m.)

The commission will discuss and refine Technical Assistance draft rules from the commission's discussion at its May 23, 2018 meeting.

Procedural Draft Rules (approximately 10:15 a.m.)

OWEB staff will introduce draft procedural rules, which the commission will discuss and refine.

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.)

"Putting It Together" (approximately 12:30 p.m.)

Commission, with assistance from Context Technical Committee members, will look at all the Oregon Agriculture Heritage Program (OAHP) components together to discuss their connections with each other, other OWEB programs, and other related programs to assess whether rules developed meet the vision described in OAHP's statute.

Tentative list of Context Technical Committee members in attendance:

- **Mary Anne Cooper:** Public Policy Council at [Oregon Farm Bureau](#) and OAHP work group member
- **Dylan Kruse:** Policy Director at [Sustainable Northwest](#) and OAHP work group member
- **Laura Masterson:** Oregon Board of Agriculture member, OWEB Board member, [East Multnomah Soil & Water Conservation District](#) Director, and farmer at 47th Avenue Farm
- **Jerome Rosa:** Executive Director of the [Oregon Cattlemen's Association](#) and OAHP work group member
- **Jay Udelhoven:** Executive Director of [East Multnomah Soil and Water Conservation District](#)



Oregon Agricultural Heritage Commission Meeting Minutes

Oregon Agricultural Heritage Commission (OAHC) Meeting
Thursday, April 26, 2018
Room 1868
152 NW 4th Street
Prineville, OR 97754

MINUTES

OAHC Members Present

Bailey, Ken
Bennett, Mark
Jackson, Nathan
Johnson, Derek
Krahmer, Doug
Loop, Lois
Neuhauser, Will
Taylor, Bruce
Wahl, Mary

OWEB Staff Present

Fox, Jim
McAdams, Nellie
Redon, Liz
Williams, Eric

Others Present

Beamer, Kelley
Masterson, Laura
Udelhoven, Jay

The meeting was called to order at 8:03AM.

Welcome, Housekeeping, and Introductions

Commission Chair Doug Krahmer welcomed commission members. Meeting facilitator and OWEB Staff, Liz Redon, explained housekeeping measures.

Minutes

Commission members reviewed the minutes from the April 5th meeting. Bruce Taylor moved to adopt the minutes, with a second from Ken Bailey. Minutes were approved unanimously.

Succession Planning Draft Rules

OWEB Staff Liz Redon confirmed with the commission that they have no edits to the [draft succession planning rules](#) and will discuss them with all other draft rules at the next meeting.

Conservation Management Plan Draft Rules

OAHP Coordinator Nellie McAdams and Liz Redon led the commission in a point-by-point discussion of the second draft of the [conservation management plan rules](#) for everything except evaluation criteria.

Changes included adding a definition for “mutual modifications” and requiring a conflict resolution protocol as a conservation management plan component if plan implementation is funded. The commission changed “subject to the plan” to “implementing the plan” and added

“material” change to the definition of mutual modification. “Material changes” are changes listed under XX11 (6) of the draft statute and may be further defined in guidance.

The commission also decided to clarify that at least one site visit must occur every 3 years, instead of an undefined number of site visits every 3 years.

The commission also asked if using the term “plan implementor” would be more accurate and less confusing than the statutory term “agricultural owner or operator,” and asked OWEB staff to offer potential revisions to that effect. The commission also asked staff to ensure that where “agricultural owner or operator” is used, that the rules use the correct statutory language (“or” instead of “and”) unless the statute is modified to change “or” to “and”.

The commission agreed that the purpose statement for conservation management plans should duplicate the statutory language (which does not name water quantity), so long as water quantity is one of the ranking criteria for plans and is considered to be an element of “natural resource values.”

Conservation Management Plan Evaluation Criteria

OWB Staff Eric Williams, Nellie McAdams, and Liz Redon let the commission through the first draft [conservation management plan evaluation criteria rules](#). Notes for each evaluation criterion are below. Throughout, commissioners recommended limiting the use of the term “the extent to which” to the main criterion and eliminating it from the subcriteria.

First evaluation criterion

“The extent to which the proposal meets the purpose of the program as defined in OAH XXX-XXX-XX01.”

The commission stated that any grant application must be consistent with the statutory purpose, and that this provision should refer to these items (noted in the flipchart):

- Significance of working lands
- The importance of the place
- How well project addresses the concern

Alternate language was suggested, reading: ““The significance of the agricultural, ecological, and social values of the working land subject to the conservation management plan”

The commission also agreed that the purpose of OAH is to *integrate* agricultural and ecological outcomes, and not just balance them, because balance implies that these two goals are always oppositional.

Second evaluation criterion

“The extent to which the application would result in plans for multiple agricultural owners or operators in an identified area”

Notes from the flip chart stated:

- Change “would” to “might”

- Does not allow just 1 conservation management plan, which might be limiting at beginning when a region may have only 1 early adopter
 - How to use this as a ranking criterion?
 - How to measure?
- The issue is less about the number of plans, and more about the impact and landscape scale (e.g. 5 acres vs. 10,000 acres). Convert language to more about impact.
- Clarify in guidance how to use criteria

Third evaluation criterion

“The extent to which the plan(s) would protect, maintain or enhance farming or ranching on working land”

Notes from the flipchart stated:

- How does “The cost benefit...” relate to “The extent to which the plan(s) would protect”?
- What is the definition of “non-farm uses”?
- Capture in guidance: water rights / value in rev.
- “The cost-benefit” refers to whom?
- Does it make sense to farm / ranch the property?

The commission decided to remove the requirement for a business plan and instead to include this in guidance as one way to demonstrate how the implementation of the plan would improve or maintain economic viability.

The commission also removed the cost-benefit requirement (referred to as risk/reward elsewhere in the draft) as this is already an intrinsic part of grant review.

Fourth evaluation criterion

“The extent to which the plan would protect, maintain or enhance significant fish or wildlife habitat, improve water quality or support other natural resource values”

For the first sub-criterion, the commission substituted “integrates” for “holistically addresses.” The commission clarified in guidance that plans could be used to support vulnerable species and species of concern - not only species listed under the Endangered Species Act. Guidance for this criterion also includes support for ecosystem function and resilience, and acknowledges that forestry is not excluded from conservation management plans.

Fifth evaluation criterion

“The extent to which the plan(s) would protect significant agricultural outcomes, benefits or other investment gains, including the extent to which the working lands on which the plan(s) is/are developed are an integral part of the local community or economy”

The commission understood the term “other investment gains” to mean agricultural infrastructure in the area and suggested a potential clarification in statute or simply to include this in guidance.

Sixth evaluation criterion

“The capacity of the organization that filed the application to enter into a conservation management plan, and the competence of the organization”

Notes from the flipchart stated:

- For the sub-criterion “Demonstrated relevant expertise and track record...” add “commitment” of the organization.
- An indicator of this can be a staff person.

The commission stated that commitment could be demonstrated by mission, vision, or other organizational statements. They also added or moved the following items to guidance for “The strength of the organization:”

- Governance of the organization, including agricultural owners or operators on the board;
- Dedicated staff capacity (e.g. job description)
- A plan to assign project administration to another entity if needed
- Working relationships with funders, project partners, and the community.

Seventh evaluation criterion

“The extent to which the benefit to the state from the investment may be maximized, based on the ability to leverage grant moneys with other funding sources, and on the duration and extent of the conservation management plan.”

Notes from the flipchart stated:

- Duration only affects ranking if application includes funding for implementation of the plan (guidance)
- Ecosystem services: Put somewhere else (in natural resources criterion)
- Cumulative benefits of *related* investments... - could be located in #5 or guidance

Eighth evaluation criterion

“The extent and nature of the plan(s)’s impacts on owners or operators of neighboring lands.”

Notes from the flipchart regarding communications with neighbors were:

- What kind of documentation are we looking for? Get guidance
- Plan to talk with neighbors once the plan is funded and near implementation

Public Comment

No members of the public offered public comment.

Covenant and Easement Evaluation Criteria

OWEB Staff Eric Williams, Nellie McAdams, and Liz Redon let the commission through the first draft of the [covenant and easement evaluation criteria rules](#). Notes for each evaluation criterion are below. The commission noted that rules for compliance and eligibility will be included in the easement and covenant rules, but not including ranking criteria.

First evaluation criterion

“The extent to which the proposal meets the purpose of the program as defined in OAH XXX-XXX-XX01.”

The commission chose to carry over their changes from the CMP rules, modifying this to read: “The significance of the agricultural, ecological, and social values of the working land subject to the working land conservation covenant or easement.”

Second evaluation criterion

“The extent to which the working land conservation easement or covenant would protect, maintain or enhance farming or ranching on working land.”

Notes from the flipchart stated:

- Define and send options: Fragmentation, Development, Non-farm uses
 - **Fragmentation definition:** Think of whole operation and what types of ground it needs to be viable (for example: Eastern Oregon ranches)
- Agriculture allowed on property (not necessarily all) and not removed from the entire property for conservation use only. Some land just isn't productive.
- Guidance: Size, connectivity, adjacency, soil types and water
- Level of risk to the property = Threat and urgency

The commission decided that it was not necessary to require succession plans, since this is covered in the long-term viability of the operation. They also decided that it was not necessary to include “cost-benefit” as its own sub-criterion, since the review process addresses this.

Third evaluation criterion

“The extent to which the easement or covenant would protect, maintain or enhance significant fish or wildlife habitat, improve water quality or support other natural resource values.”

Notes from the flipchart stated:

- Re-write so not repeating “the extent to which”
- Guidance: protection of vulnerable species (not only ESA listed)
- Use language “maintains and improves” consistently
- Guidance: What is “seasonally appropriate flows”?
- Guidance: What is “water retention”?

Fourth evaluation criterion

“The extent to which the covenant or easement would protect significant agricultural outcomes, benefits or other investment gains.”

Notes from the flipchart stated:

- How to ensure public benefit?
- Ensure not to discriminate against types of agriculture and scale
- This criterion should describe context: landscape, agriculture, etc.
- Conservation of the agricultural land base and water for agricultural use is KEY! This is the primary sub-criterion

- The following sub-criterion (regional importance) supports the first sub-criterion and includes
 - Economies of scale
 - Avoid tipping points
 - Guidance here (from materials)
 - “Agricultural outcomes” means the agricultural operation has regional importance

The commission deleted the first sub-criterion as duplicative with the other two. They also discussed whether conservation of the agricultural land base should be demonstrated by a specific size of parcel, e.g. median size of farm or farm parcel in the county. However, the commission felt that this might be too difficult to define for the state and that the issue might not depend upon size, but rather upon whether the loss of the parcel leads to a “tipping point” that makes it more difficult to farm in the region. They preferred that the application require a description of the context for this parcel and its significance in the region.

Fifth evaluation criterion

“The capacity of the organization that filed the application to accept a working land conservation covenant or working land conservation easement, and the competence of the organization.”

Notes from the flipchart stated:

- Not a yes / no question
- Guidance about standard practices
- Guidance should have key indicators

The commission requested that these sub-criteria be cross-referenced with ACEP-ALE’s criteria and the Land Trust Alliance’s accreditation requirements. They felt that the organization’s mission should be for “land preservation” rather than for easements and covenants, because few organizations hold covenants (or termed easements) at this time, and some organizations are just beginning to engage in working land protection.

Sixth evaluation criterion

“The extent to which the benefit to the state from the investment may be maximized, based on the ability to leverage grant moneys with other funding sources and on the duration and extent of the working land conservation covenant or working land conservation easement.”

Notes from the flipchart stated:

- Guidance about conservation and / or agriculture in the community
- Location implementation
- Needs time to transfer to permanent easement, if desired
- Compatibility with local land use plans

Seventh evaluation criterion

“The extent and nature of covenant or easement impacts on owners or operators of neighboring lands.”

Notes from the flipchart stated:

- Land use and community priorities
- Communications plan
- Effective communication with neighbors is a process, not a criterion
- Corridors of habitat (covered in #3?)

Discussion of Easement and Covenant Rules Aside from Evaluation Criteria

OWEB Staff Eric Williams, Nellie McAdams, and Liz Redon let the commission through a discussion of other topics related to easement and covenant rules. Available to assist the commission were:

Context and Easement/Covenant Technical Committee members:

- **Kelley Beamer:** Executive Director of the [Coalition of Oregon Land Trusts \(COLT\)](#) and OAHP work group member
- **Laura Masterson:** Oregon Board of Agriculture member, OWEB Board member, [East Multnomah Soil & Water Conservation District](#) Director, and farmer at 47th Avenue Farm

Context Technical Committee member **Jay Udelhoven:** Executive Director of [East Multnomah Soil and Water Conservation District](#)

Notes from each of the discussions are below.

Match

Notes from the flipchart stated:

- Stewardship Endowment Conservation
- Match purpose is to demonstrate partnership
- Different match rate for different components (transaction, stewardship, etc.)?
- Question: Is match minimum required or used as ranking?

The commission decided that the match requirement should be 25% of total project cost (rather than 25% of the acquisition cost, and 25% of the costs of acquisition), and that match could consist entirely of landowner donation of covenant or easement value. They felt that these rules could remain simple, and that the ranking criterion that refers to leverage could be a way to rank applicants based on the amount of match.

The commission asked what was included in total project cost, especially whether a stewardship endowment can be included. If stewardship endowments can be included, would they have the same percentage match or a different (higher) match requirement than other project costs?

Buy-Protect-Sell

Notes from the flipchart stated:

- Question: Would you want OAHP to pay Buy-Project-Sell?
- Apply advance waiver?
- Organizations should be able to protect and sell in 1 transaction, with coordinated funding

- Who can do this?
- Example holding company vs. land trust, etc.
- Question: Can rules be silent and still be available as a tool?
- Maybe not highest priority
- Staff work on details and come back

The commission wanted to allow applicants who have bought land to be eligible to sell the property with a covenant or easement to be eligible OAHP funding for the price difference of the easement that they retain. They did not think that the rules needed to specify that this was permissible, and that the rules should not preclude this type of transaction.

Covenant Valuation

Notes from the flipchart stated:

- Question: Does CMP implementation provide the same outcomes as a covenant?
- Sliding scale percentage of a permanent appraisal (e.g. 20% of appraisal value for 20 years, 30% for 30 years, etc.) may make sense with timelines in statute
- Question: What is legal for OWEB as a public entity? Hear from Department of Justice.
- Preference for “trial” approach of a 5-year covenant before deciding whether to convey an easement (not paying 90% of permanent easement appraisal value for the covenant)
- Duration is already an evaluation criterion
- Graph 5-50 years – is it hitting full valuation of an easement?
- Receive data on existing working land easements in Oregon or Pacific Northwest

The commission wanted to consider the public benefit received for the price paid.

Duration of Covenants

The commission is tasked with assigning three or more terms between 20 and 50 years for covenants. If the covenant is the same duration as a conservation management plan, the covenant must refer to that plan.

Notes from the flipchart stated:

- The commission prefers allowing any length of years between 20 and 50 – sliding scale
- Fair market value - Non-profits must account for market value for purchases (including cash plus any donation) in order to keep their nonprofit status.
- For what price do all parties feel they got their 30-years’ worth? From what perspective: at the beginning or end of 30 years?

Double Payment

The commission was asked for their opinion on whether the combined payment from OAHP for covenants and permanent easements on a property could equal more than the present day value of the property.

Notes from the flipchart stated:

- This is not “double dipping” because the covenant payment is for that time period only, not permanence
- This is more of a question of use of public funds

- What about when the covenant time is not yet up and the landowner wants to convert it to an easement? Consider it as a lease with option to purchase?
- Depends on how the program calculates covenant value
- Reverse auction can set value, but requires a larger market to be successful
- Not an issue if the covenant is not very financially lucrative
- Follow up: Ask an appraiser

Section 6(5)

The commission considered how to demonstrate Section 6(5) of the statute: “An applicant must demonstrate to the satisfaction of the board that the participants in a conservation management plan, working land conservation covenant or working land conservation easement to be benefitted by a grant under this section understand and agree to their roles and responsibilities under the plan, covenant or easement.”

Notes from the flipchart stated:

- Understand and agree to rules and responsibilities
- Use the statutory language in the agreement/consent form

“Refrigerator” for future work

Notes from the flipchart stated:

- Process flow clarity
 - Tech. com → commission → Board
 - Check that language is clear in statute
- Putting it together
 - Look at all criteria together
 - For eligibility, must you consider agriculture first before you can qualify for OAHP grants, because otherwise you can use OWEB’s other grant programs?
 - Did we keep our bargain to champions of the statute?
 - Hear from commissioners who have conveyed or are in the process of conveying easements about their process.

Next Steps

The commission agreed to extend their May 23 to 24 meeting to two full days, but to limit it to 8:00 AM – 3:30 PM each day. They agreed to allow OWEB staff to bring to them at the next meeting the following draft rules to discuss and edit together:

- Covenants and easements, except evaluation criteria
- Technical Assistance
- General program administration

The meeting was adjourned at 3:15 PM.

Division XXX
Conservation Management Plans

698-XXX-0010

Purpose

An agricultural owner or operator may enter into a conservation management plan with an organization ~~for to manage~~ working land ~~to be managed~~ in a manner that supports one or more natural resource values. Conservation management plans:

- 1) Must be 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.
- 2) Must contribute to the public benefits in OAR 698-XXX-0010 *{Administration rules}*.
- 3) May include provisions for addressing particular priorities related to natural resource values, including but not limited to soil, water, plants, animals, energy and human need considerations.

Comment [NM1]: Dean Moberg wrote: it feels like it's lacking verbiage that ties the program to a big picture vision of Oregon agriculture. Can you add a brief paragraph in the very beginning that describes why Oregon ag is so important and how there is a need for a new process to ensure ag remains vibrant, productive, profitable, and conservative of resources? That new paragraph could then flow smoothly into the 4 bulleted purposes.

Comment [NM2]: Tom Salzer

698-XXX-0020

Definitions

- (1) "Mutual Modification" means a change to a conservation management plan that is
 - a. Material to the plan as defined in section XX11(6); and
 - b. Agreed to by both the agricultural owner and or operator subject to implementing the plan and the conservation management plan holder.

Comment [NM3]: Other definitions in Admin Rules

698-XXX-0030

Eligibility

- 1) Eligible applicants (henceforth "Grantees") for Conservation Management Plan Grants are:
 - a. Entities eligible to hold a conservation easement, as defined in ORS 271.715, other than a state agency;
 - b. Watershed councils; and
 - c. Nonprofit entities that are tax exempt under section 501(c)(3) of the Internal Revenue Code.
- 2) Individual agricultural owners or operators and individual persons advising them are not eligible to apply for a Conservation Management Plan Grant.

Comment [NM4]: Dean Moberg

698-XXX-0040

Application

Conservation Management Plan Grant applications shall:

- (1) Be consistent with OAR 698-XXX 0030 { *Admin Rules for application requirements*}; and
- (2) Include the duration ~~or~~ and any other terminating event(s) for the plan.

Comment [NM5]: Should rules state that no match is required? Leverage will be covered in ranking criteria.

698-XXX-0050

Eligible Activities

Funding can be utilized to purchase, implement, and monitor conservation management plans. (Additional information to be developed as a part of payment conversation.)

Comment [ML6]: This language may change in a technical statutory fix

698-XXX-0060

Term of Payment for Conservation Management Plan Implementation

- 1) If an agricultural owner or operator is reimbursed for the implementation of a conservation management plan, the plan must be for a term of ~~between at least~~ 20 and ~~no more than~~ 50 years.
- ~~1~~2) If a plan is associated with a working land conservation covenant, the term of the plan must be the same as the term of the covenant.

698-XXX-0070

Conservation Management Plan Components

At minimum, conservation management plans will include:

- (1) A summary describing how the conservation management plan meets OAHF's purpose;
- (2) Contact and location information for the agricultural owner or operator;
- (3) Relevant background and context;
- (4) Inventory, including site characteristics and current management;
- (5) Short- and long-term social, economic, and conservation goals of the agricultural owner(s) or operator(s);
- (6) Resource analysis and identification of resource and management concerns;
- (7) Identification of potential plan activities and selection of activities to be implemented;
- (8) The implementation plan, including a budget;
- ~~(8)~~(9) If applicable, a maintenance plan for infrastructure that may affect neighboring lands if not maintained over time;
- ~~(9)~~(10) The conservation, social, and economic outcomes of the plan once implemented;
- ~~(10)~~(11) How the conservation management plan will be evaluated and managed;
- ~~(11)~~(12) A conflict resolution protocol for the agricultural owner or operator and the grantee if plan implementation is being funded; and
- ~~(12)~~(13) The term of the plan.

Comment [NM7]: "Alternative identification and selection" was not seen as clear. Does this define it?

698-XXX-0080

Evaluation Criteria

Conservation Management Plan Grant applications will be evaluated on:

- 1) The significance of the agricultural, ecological, and social values of the working land subject to the conservation management plan.
- 2) The extent to which the implementation of the plan(s) will contribute to the agricultural, ecological, and social values of the surrounding area.
- 3) The extent to which implementation of the plan(s) would protect, maintain, or enhance farming or ranching on working land, including how implementation of the plan would:
 - a) Improve or maintain the economic viability of the operation; and
 - b) Reduce the potential for fragmentation, development, and non-farm conversion from agricultural uses on, the working land subject to the plan.
- 4) The extent to which implementation of the plan would protect, maintain, or enhance significant fish or wildlife habitat, improve water quality, or support other natural resource values by:
 - a) Protecting, maintaining, or improving priority natural resource values applicable to the land, including soil, water, plants, animals, energy, and human needs considerations;
 - b) Supporting implementation of local, regional, state, federal, or tribal priorities or plans;
 - c) Protecting, maintaining or improving the quality and connectivity of wildlife habitat on and around the working land subject to the plan;
 - d) Measurably protecting, maintaining, or improving water quality; and
 - e) Protecting, maintaining, or improving seasonally appropriate water flows.
- 5) The extent to which implementation of the plan(s) would protect significant agricultural outcomes, benefits, or other investment gains, including the role that the working land subject to the plan plays in the local community or economy.
- 6) The capacity and competence of the organization that filed the application to enter into and (if implementation funding is awarded) oversee implementation of a conservation management plan, including:
 - a) The financial capability of the organization to manage the plan(s) over time;
 - b) The demonstrated relevant commitment, expertise, and track record to successfully develop and implement plan(s); and
 - c) The strength of the organization as measured by effective governance.
- 7) The extent to which the benefit to the state may be maximized, based on:
 - a) The ability to leverage grant moneys with other funding sources;
 - b) The duration and extent of the conservation management plan, with a preference for longer term agreements if implementation funding is provided;
 - c) The cumulative benefits of similar conservation and/or agricultural investments in the community, including OAHF; and

Comment [NM8]: Dean Moberg wrote: Things that are not clear:
 1. Does a grantee apply for funds for one plan at a time, or do they apply to do some number of plans?
 2. Most of the criteria require a plan to already be mostly completed. May be too late to change things drastically, but it seems like these criteria would work to prioritize which plans are funded for implementation. Maybe the criteria for funding staff to complete plans should be something like the NRCS CIS approach, in which a SWCD would develop an area-wide plan at their own cost and then apply to OWEB for funds to write individual conservation plans. Finally, the grantee could apply for funds to implement those plans.

Comment [NM9]: Guidance would include: Integration of agriculture and conservation that increase protection of both

Comment [NM10]: This was reworded to allow clustering of projects, early adopters in areas with few plans, recruitment of other working lands

Comment [NM11]: Guidance would include

Comment [NM12]: Define

Comment [ML13]: Guidance would include:
 • Increased soil health
 • Increased carbon sequestration

Comment [ML14]: Guidance would include: Plans for or presence of vulnerable or listed species or associated habitat

Comment [NM15]: Guidance would include: Establishment of habitat corridors or blocks

Comment [NM16]: Guidance would include:
 • TMDL improvement
 • Temperature reduction

Comment [NM17]: Define in guidance

Comment [NM18]: Define social benefits associated with continued ag use, and "investme

Comment [NM19]: Or change to "The regional importance of the agricultural operation and land base" to be consistent with easement/covenant

Comment [NM20]: Guidance would include: May be demonstrated by mission, vision, or other organizational statement.

Comment [NM21]: Guidance would include:
 • Agricultural owners or operators on the Boar

Comment [NM22]: Dean Moberg wrote: What does "extent" mean? Does this mean that larger properties are higher priority?

Comment [NM23]: Dean Moberg wrote: 7c does not seem to flow from 7. I'm not sure we need it

Comment [ML24]: This will be very hard to quantify and harder to track – consider moving to guidance

d) The potential for setting an example that will encourage additional working lands projects in the region.

8) The extent and nature of the impacts of plan implementation on owners or operators of neighboring lands, including:

a) A description of potential positive and negative impacts of implementation of the conservation management plan on neighboring lands;

b) A plan for communicating with neighboring landowners once the conservation management plan(s) is/are ready to be implemented about how to mitigate any negative impacts;

c) A maintenance plan or plans for infrastructure that may impact neighboring lands if not maintained over time.

Comment [NM25]: Dean Moberg

Comment [NM26]: Guidance to include:
•Connectivity to both wildlife habitat and protected agricultural lands;
•The impact on shared drainage systems.

Comment [NM27]: Dean Moberg: Maintenance plans should use affordable, feasible, and effective methods.

698-XXX-0090

Technical Review and Funding Process

(1) Technical review of Conservation Management Plan Grant applications shall occur based on information provided in the grant application.

(2) Applications shall be evaluated according to criteria described in OAR 698-XXX-0080.

(3) The ranking system shall provide for the ranking of conservation management plans alone and not as part of an application that includes a working land conservation covenant or easement to be separate from the ranking of working land conservation covenants and working land conservation easements.

(4) The Board and Commission shall jointly appoint one or more technical committees to evaluate and rank applications for grants for conservation management plans.

~~(3) The Commission shall use one or more technical committees to evaluate Conservation Management Plan grant applications.~~

~~(4)~~(5) The technical committee(s) shall provide ranking recommendations to OWEB staff. OWEB staff will review technical committee recommendations and provide funding recommendations to the Commission.

(6) The Commission shall review and consider the recommendations of the technical committee(s) appointed under 698-XXX-0040(4) and consult with the Board concerning grant applications.

(7) The Commission shall make funding recommendations to the Board based on the availability of funding from the Oregon Agricultural Heritage Fund.

~~(5) The Commission may rank projects and shall provide funding recommendations to OWEB's Board.~~

~~(6)~~(8) The Board approves Conservation Management Plan Grants. The Board may fund a grant application in whole or in part.

698-XXX-0100

Grant Agreement Conditions

- (1) Grant funding is subject to the signed statement of understanding and agreement by the participating agricultural owner(s) or operator(s) to the roles and responsibilities under the conservation management plan.
- ~~(1)~~(2) All Conservation Management Plan Grant agreements authorized by the Board shall have a clause that requires the retention of up to 10 percent of project funds until the final report, as required in the grant agreement, has been approved. Any unexpended OAHF funds must be returned to the Commission with the final report.
- ~~(2)~~(3) The grantee must agree to complete the project as approved by the Board and within the timeframe specified in the grant agreement unless proposed amendments are submitted and approved by the Director prior to the beginning of any work proposed in the amendment.
- ~~(3)~~(4) The Director will consider project amendments, 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.
- ~~(4)~~(5) Rules and conditions in place at the time the conservation management plan is formally adopted shall govern throughout the term of the plan unless changes are mutually agreeable to both parties.
- ~~(5)~~ All changes to the conservation management plan must be reflected in writing and provided to the Oregon Agricultural Heritage Commission.

Comment [NM28]: Tom Salzer

698-XXX-0110

Conservation Management Plan Mutual Modification

If funding is provided for conservation management plan implementation:

(1) Any changes to conservation management plans must achieve the same or greater level of benefits as the original plan, as evaluated by the criteria in 698-XXX-0080.

Comment [NM29]: Dean Moberg

(2) Conservation management plans must include provisions that provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances.

(3) Any change must be mutually agreed to by both the agricultural owner or operator and the grantee.

(4) To ensure consistent review of all conservation management plans, the grantee and the agricultural owner or operator must review the conservation management plan at least annually and may mutually modify the conservation management plan if necessary.

(5) The agricultural owner or operator must contact the grantee at any time immediately if any of the following changes occur that will impact either implementation of the conservation management plan or its expected outcomes:

Comment [NM30]: Tom Salzer

- (a) Changes in management or ownership of the property;
- (b) Changes in the grazing/cropping system(s) not identified in the plan. For changes in grazing/cropping systems, the landowner must notify the grantee in advance.
- (c) A natural disaster occurs that will impact implementation of the conservation management plan; or
- (d) Other changes that are outside the agricultural owner's or operator's control.

(6) The grantee must contact the agricultural owner or operator if changes in science significantly affect the effectiveness of conservation management plan implementation.

(7) Modifications may include:

- (a) Addition of new conservation practices, measures or conservation benefits;
- (b) Changes in practices, measures or benefits based on:
 - a. changes in science;
 - b. changes to property management or ownership;
 - c. changes in grazing/cropping systems;
 - d. natural disasters; or
 - e. Other changes outside the agricultural owner's or operator's control.

698-XXX-0120

Conservation Management Plan Monitoring

If funding is provided for conservation management plan implementation:

- (1) The agricultural owner or operator must meet annually with the grantee and provide a written report of conservation management plan activities completed each year to the grantee on a form approved by the Commission. Reports may also include photo points or other methods that appropriately track plan implementation.
- (2) Annual reporting must identify any mutual modifications to the conservation management plan.
- (3) Notwithstanding (4), ~~site visits by~~ the grantee must conduct at least one site visit to the property ~~must occur~~ every three years, or as prescribed by a match funder if their interval for site visits is shorter than three years, to document the implementation of the conservation management plan.
- (4) The agricultural owner or operator and the grantee may agree to establish specific monitoring protocols and site visit intervals to identify trends in habitat, water quality or other natural resource values, and must establish protocols if a modification of the conservation management plan results in specific monitoring or site visit needs. Protocols must be in writing and agreed to by both the agricultural owner or operator and the grantee. The Commission may provide guidance for consistent monitoring protocols.
- (5) The Commission may conduct spot checks to ensure management plan implementation as identified in the plan and associated reporting. The agricultural owner or operator shall allow site access upon reasonable notification by the Commission.
- (6) The Commission may also develop monitoring protocols to evaluate the outcomes of conservation management plan implementation on a programmatic level.

Comment [NM31]: Tom Salzer

698-XXX-0130

Grant Reporting Requirements

- 1) For grants that fund conservation management plan implementation, the grantee must receive and provide to the Commission at least annual reports from the agricultural owner or operator regarding plan implementation.
- 2) Upon development of a conservation management plan or completion of conservation management plan implementation, 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)3) Upon receipt of the final report, the Commission shall have 90 days to approve the completed report or notify the Grantee of any concerns that must be addressed or missing information that must be submitted before the report is considered complete and reviewed for approval. Once the final report has been approved the final payment shall be promptly processed.

Comment [ML32]: Possibly move to the OAHP administrative rules that apply to all of the various programs and leave it out of this specific division.

698-XXX-0140

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 Conservation Management Plan Grant. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the Commission within a reasonable time. The administrative rules for Conservation Management Planning Grants shall be periodically reviewed by the Commission and revised as necessary and appropriate.

Comment [NM1]: Based on flipchart notes, rules do not address 'buy-protect-sell'; can be added later as a rule amendment

698-XXX-0010

Purpose

The purpose of this program is to contribute to the public benefits of:

- (1) Increased economic viability of Oregon agricultural operations,
- (2) Reduced fragmentation of Oregon’s working land,
- (3) Reduced conversion of Oregon’s working land to nonfarm uses, and
- (4) Enhanced fish and wildlife habitat and other natural resources on Oregon’s working land.

An agricultural owner or operator may enter into a working land conservation covenant with or grant a working land conservation easement to an organization that is a holder, as defined in ORS 271.715, other than a state agency. The covenant or easement must be for the purpose of ensuring the continued use of the land for agricultural purposes while maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values on the land. In addition, a working land conservation covenant or working land conservation easement may provide for carrying out any purposes of a conservation easement, as defined in ORS 271.715.

698-XXX-0020

Definitions

- 1) “Bargain sale” is the sale of a covenant or an easement to a holder for less than the fair market value of the covenant or easement. The value of the discount might qualify as a charitable donation.
- 2) “Management plan” is a description of the planned future management of a property proposed for acquisition that addresses agriculture, habitat and natural resource management practices; stewardship or monitoring; and land uses on the property. If applicable, it also addresses any proposed agriculture or habitat restoration projects, public access, and educational or research opportunities on the property.
- 3) “Profit” means the positive difference between the original purchase price for the covenant or easement interest acquired with OWEB grant funds and a subsequent purchase price for the same property interest, minus the owner’s property improvement costs that, from an accounting or tax perspective, are capitalized and not expensed.
- 4) “Stewardship endowment” is the fund that is used to cover the holder’s costs for the monitoring, stewardship, resolution of violations, and any enforcement of the covenant or easement.

Comment [ML2]: Adapted from the OWEB acquisition definition.

698-XXX-0030

Eligibility

Eligible applicants for Working Land Conservation Covenant and Easement Grants are holders as defined in ORS 271.715 other than state agencies. Individual agricultural owners or operators and individual persons advising them are not eligible to apply for a Working Land Conservation Covenant and Easement Grant.

Comment [NM3]: Bari Williams: May want to consider adding a criteria that the entity has the authority to purchase and hold agricultural easements with an established program to manage ag easements. Thereby limiting the eligible applicants to those with the purpose of protecting agricultural in their foundational bylaws.

Comment [NM4]: <https://www.oregonlaws.org/ors/271.715>

698-XXX-0040

Application

- 1) In accordance with ORS 541.977(3) and (4), OWEB may consider Working Land Conservation Covenant and Easement Grant applications that acquire a nonpossessory interest in working land for a permanent or fixed term that imposes limitations or affirmative obligations for the purposes that support the use of land for agricultural production and for the maintenance or enhancement of fish and wildlife habitat, improvement of water quality or support of other natural resource values.
- 2) Working Land Conservation Covenant and Easement Grant applications shall:
 - a. Be consistent with administrative Oregon Agricultural Heritage Program rules {similar to OAR XXX Division 005};
 - b. Be submitted on the most current form and process prescribed by the Commission;
 - c. State the amount and type of match contribution;
 - d. If the application is for a covenant, include the duration of the covenant; and
 - e. If identical in duration to a conservation management plan for the working land, refer to the conservation management plan in the text of the covenant or easement.
- 3) The Commission may consider proposals that are received for properties that were acquired by the applicant after the previous application deadline.

Comment [ML5]: Taken from statute

Comment [ML6]: Commission – ok with this?

698-XXX-0050

Matching Contributions

- 1) All applicants shall demonstrate at least 25% of the covenant or easement project costs is being sought as match as demonstrated by a formal application or agreement.
- 1)2) The following costs-funds and activities will qualify as match:
 - a. ~~All costs listed under OAR 698-XXX-0060, including in-kind contributions of those costs~~to activities listed under OAR 698-XXX-0060;
 - b. Funding commitments made by others as a result of grant applicant efforts;
 - c. The donated portion of a bargain sale; and
 - d. Funds deposited in a stewardship endowment before the time that OWEB funds are released for acquisition of the property.
- 2)3) The OWEB Director retains the discretion to determine whether specific proposed matching costs not specifically identified above can be recognized as qualifying matching costs.

Comment [NM7]: Bari Williams

Comment [NM8]: Bari Williams

Comment [ML9]: Commission: 25% of all costs considered match – for discussion purposes.

Comment [NM10]: Define

698-XXX-0060

Use of Grant Funds

Land acquisition grant funds may be applied towards costs related to the purchase of the covenant or easement, including:

- 1) The purchase price and the purchase option fees associated with the working land conservation covenant or easement:
 - a. The purchase price for easements shall be based on an appraisal and review appraisal completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and if required by other funding sources or the Internal Revenue Service, the Uniform Appraisal Standards for Federal Land Acquisitions.
 - b. The purchase price for covenants shall be based on an assessment of fair market value using methodologies similar to those described in OAR 698-XXX-0060 (1)(a)
- 2) The interest on loans;
- 3) The staff costs incurred as part of the acquisition process related to the property;
- 4) The cost of due diligence activities, including appraisal, environmental site assessment, survey, title review and other customary due diligence activities.
- 5) The cost of baseline inventory preparation;
- 6) The cost of preparation of the initial management plan, including consideration of any restoration needs;
- 7) The legal fees incurred;
- 8) The closing fees, including recording and title insurance costs;
- 9) The cost of securing and maintaining the agriculture and conservation values associated with the property in accordance with the application or a Management Plan approved by the Director; and
- 10) Funding for a **stewardship endowment**.

Comment [NM11]: 1) Statute states "purchasing, implementing, carrying out or monitoring of the covenant or easement."

Comment [NM12]: Commission: Consider whether to allow or set higher match requirement

698-XXX-0070

Conservation Covenant Term

- 1) **A working land conservation covenant shall be for a term of no less than twenty and no more than fifty years.**
- 2) The covenant term shall be set at 12-month increments only and not partial years.
- 3) **The first day of the term of a covenant shall be the date that both of these event have occurred:**
 - a. The covenant holder and the agricultural owner or operator conveying the covenant sign the agreement; and .
 - b. Consideration has been paid for the covenant.

Comment [ML13]: Commission: from flipchart notes

Comment [NM14]: For Commission consideration

698-XXX-0080

Evaluation Criteria

- 1) The significance of the agricultural, ecological, and social values of the working land subject to the working land conservation .
- 2) The extent to which the proposal meets the purpose of the program as defined in OAR XXX-XXX-XX01.
- 3)2) The extent to which the working land conservation covenant or easement would protect, maintain or enhance farming or ranching on working land, including:
 - a) Reducing the level of risk of farmland conversion;
 - b) Reducing the potential to reduce future fragmentation, development, and non-farm uses on the property;
 - c) Maintaining or enhancing the ability of the land to remain in productive agriculture after the covenant or easement is in place;
 - d) The potential viability of the property for agriculture;
 - e) Improving of maintaining the economic viability of the operation, including future transfer of ownership;
- 4)3) The extent to which the covenant or easement would protect, maintain or enhance significant fish or wildlife habitat, improve water quality or support other natural resource values by:
 - a) Protecting, maintaining, or improving priority natural resource values applicable to the land, including soil, water, plants, animals, energy and human needs considerations;
 - b) Supporting implementation of local, regional, state, federal or tribal priorities or plans;
 - c) Protecting, maintaining or improving the quality and connectivity of wildlife habitat on and around the working land;
 - d) Measurably protecting, maintaining, or improving water quality; and
 - e) Protecting, maintaining, or improving seasonally appropriate flows.
- 5)4) The extent to which the covenant or easement would protect significant agricultural outcomes, benefits or other investment gains to the region, including:
 - a) The parcel's contribution to conserving the region's agricultural land base.
 - b) The regional importance of the agricultural operation and associated infrastructure necessary to support agricultural operations;
- 6)5) The capacity and competence of the organization that filed the application to create, hold, monitor, steward, and enforce a working land conservation covenant or working land conservation easement, including:
 - a) Accreditation from the Land Trust Accreditation Commission, or implementation of similar standards and practices to an organization eligible for accreditation ;
 - b) Inclusion of land preservation in the organization's mission, vision or other organizational documents;
 - c) The financial capability of the organization to steward conservation covenants and easements over time;

- Comment [NM15]:** Bari Williams: It would be beneficial to have an overview of the ranking process, is it going to be based on a point system, on a statewide ranking worksheet, reviewed and developed by whom, timeline for ranking in the application process, will there be a cut-off for ranking in which all applicants will be evaluated for funding, an outlay of the process and procedures. Also, what documentation will be required and is this documentation supplied ...
- Comment [NM16]:** Bari Williams: Significance is not well defined here, this is ...
- Comment [NM17]:** In Guidance: Integration of agriculture and conservation that increas ...
- Comment [NM18]:** In Guidance: Integration of agriculture and conservation that increas ...
- Comment [NM19]:** In Guidance: includes threat of conversion and urgency
- Comment [NM20]:** Define
- Comment [NM21]:** In Guidance: the entire property need not be available for agricultu ...
- Comment [NM22]:** In Guidance:
 - including soils
- Comment [NM23]:** In Guidance: may be demonstrated by the presence of a successi ...
- Comment [ML24]:** Guidance would include:
 - Increased soil health
- Comment [ML25]:** Guidance would includ ...
- Comment [NM26]:** Guidance would include: Establishment of habitat corridors d ...
- Comment [NM27]:** Guidance would include:
- Comment [NM28]:** Define in guidance
- Comment [EW29]:** Need guidance on specific factors that describe significant ...
- Comment [NM30]:** Guidance: This refers to surrounding agricultural infrastructure
- Comment [NM31]:** In Guidance: ...
- Comment [NM32]:** Guidance would include: ...
- Comment [NM33]:** Or substitute this for "the extent to which the working lands on ...
- Comment [NM34]:** Consider organizations like TPL that buy easements and transfer the ...
- Comment [NM35]:** Tom Salzer: I do not like tying a rule to outside standards that may ...
- Comment [NM36]:** Edited because some entities do not yet own easements or worki ...

d) Demonstrated relevant commitment, expertise, and track record to create, hold, monitor, steward, and enforce conservation covenants and easements or other relevant projects; and

e) The strength of the organization as measured by effective governance.

Comment [NM37]: Consider: for CMPs, mission/vision was one way to prove commitment. Do you want it as a separate criteria for covenants and easements?

Comment [NM38]: Guidance would include:

- Agricultural owners or operators on the Board;
- Dedicated staff capacity (e.g. in their job description and work plan), staff training, and years of experience
- Ability to manage staff transitions and a plan to assign project administration to another entity if needed

Working relationships with funders, project partners, and the community

Comment [NM39]: Commission: Include a preference for CMP as well?

Comment [NM40]: Commission: does this overlap with 4?

Comment [NM41]: Guidance may include:

- Program funds may not be used in rural reserve areas or within Urban Growth Boundaries

Comment [NM42]: Guidance to include:

- Connectivity to both wildlife habitat and protected agricultural lands;
- The impact on shared drainage systems.

7)6) The extent to which the benefit to the state from the investment may be maximized, based on:

a) The ability to leverage grant moneys with other funding sources;

b) Duration and extent of the agreement, with a preference for longer term agreements;

c) The cumulative effect of similar conservation and/or agricultural investments in the community, including OAHF;

d) The effects of land use planning on the long-term investment; and

e) The potential for setting an example that will encourage additional working lands projects in the region.

8)7) The extent and nature of the impacts of the covenant or easement on owners or operators of neighboring lands, including:

a) A description of potential positive and negative impacts of the on neighboring lands; and

b) A plan for communicating with neighboring landowners about how to mitigate any negative impacts resulting from the covenant or easement.

698-XXX-0090

Technical Review and Funding Process

(1) Technical review of Working Land Conservation Covenant and Easement Grant applications shall occur based on information provided in the grant application.

(2) Applications shall be evaluated according to criteria described in OAR 698-XXX-0080.

(3) The ranking system shall provide for the ranking of conservation management plans alone and not as part of an application that includes a working land conservation covenant or easement to be separate from the ranking of working land conservation covenants and working land conservation easements.

(4) The Board and Commission shall jointly appoint one or more technical committees to evaluate and rank applications for grants for working land conservation covenants and easements.

~~(3) The Commission may use technical committees to evaluate Working Land Conservation Covenant and Easement Grant applications.~~

~~(4)(5) The technical committee shall provide ranking recommendations to OWEB staff. OWEB staff will review technical committee recommendations and provide funding recommendations to the Commission.~~

(6) The Commission shall review and consider the recommendations of the technical committee(s) appointed under 698-XXX-0040(4) and consult with the Board concerning grant applications.

(7) The Commission shall make funding recommendations to the Board based on the availability of funding from the Oregon Agricultural Heritage Fund.

~~(5) The Commission may rank projects and shall provide funding recommendations to OWEB's Board.~~

~~(6)(8)~~ The Board approves Working Land Conservation Covenant and Easement Grants. The Board may fund a grant application in whole or in part.

698-XXX-0100

Board Approval and Delegation of Authority

The Commission shall recommend and the Board shall approve grants in accordance with guidance adopted by the Board and made available to the public. The Director is delegated the responsibility of ensuring that funding conditions required by the Board are fully satisfied by the grant applicant. Conditionally approved grant funds shall be encumbered for disbursement only after all conditions are fulfilled. The encumbered funds may be made available for other uses by OWEB if all conditions required by the Board are not satisfied within 18 months of the conditional Board approval.

Comment [ML43]: Commission: This is current OWEB language – may want more flexibility for OAHF

698-XXX-0110

Public Involvement

The public shall be provided with meaningful opportunities to comment on grant applications being considered by the Board. In a manner consistent with this requirement, the governing bodies of cities and counties with jurisdiction in the area of the proposed acquisition, as well as affected governmental agencies, will be provided with written notice of the Board's intent to consider:

Comment [ML44]: Commission: this is a requirement under other state statutes as referenced. This is the process OWEB uses.

- 1) Written comments received at least 14 days before the Board meeting at which the Board will consider the application;
- 2) Comments made at public hearings held and publicized in accordance with ORS 271.735; and
- 3) Comments made at the Board meeting at which the grant application is considered.

698-XXX-0120

Director Funding Approval and Distribution of Funds

(1) The Director may approve the distribution of grant funds when:

- a. A grant agreement is executed by the Director and the grant applicant that includes a signed statement of understanding and agreement by the participating agricultural owner(s) or operator(s) to the roles and responsibilities under the working land conservation covenant or easement,
- b. The funding conditions, if any, imposed by the Board are satisfied to the full satisfaction of the Director.
- c. The legal and financial terms of the proposed real estate transaction are approved by the Director.
- d. The title restrictions required under OAR 698XXX-0100 are approved by the Director.

Comment [ML45]: Commission: if you approve more flexibility under XXX-XXX-0080, you may want to change wording here to say:

The Director may approve distribution of grant funds. Funds may be distributed throughout the time between approval by the Board and the property closing as the following conditions are met:

- e. The Director has reconciled conditionally approved funding with actual project costs.
- f. The grant applicant has satisfied the match requirements under OAR 698-XXX-0050.
- g. The Board is notified in writing of the Director’s intent to distribute the grant funds or hold the grant funds pending Board consideration under OAR 698-XXX-0130.

(2) For grants established under these rules, the Director is authorized to reimburse the grant applicant for allowable costs identified in OAR 698-XXX-0060 and to recognize matching contributions under OAR 698-XXX-0050 that were incurred no earlier than 18 months before the applicable grant application deadline.

698-XXX-0130

Funding Decision Reconsideration by Board

In the event that the Director determines an applicant has not met conditions imposed by the Board, the Director shall forward the determination in writing to the Board for its consideration. The applicant will be provided a copy of the written determination. The conditionally encumbered grant funds will remain encumbered until the Board either affirms the Director’s determination or authorizes the continued encumbrance of all or part of the funds in accordance with a modified decision of the Board.

698-XXX-0140

Compliance and Enforcement

1) The ongoing use of the property encumbered by a covenant or easement that received funding from the Working Land Conservation Covenant and Easement Grant Program shall be consistent with the purposes specified in ORS 541.977-ORS 541.989. If significant compliance issues cannot be resolved to the full satisfaction of the Director, the Director, after informing the Commission and the Board and providing reasonable written notice to the recipient of the grant, may in his or her discretion initiate any and all legal remedies available to OWEB, including recovery of the OWEB grant funds that were used to purchase the property, and reasonable interest and penalties at the option of the Director.

2) OWEB, its contractors and cooperating agencies will be provided sufficient legal access to property acquired with OWEB funds, for the purpose of completing easement and covenant inspections and evaluations.

3) Rules and conditions in place at the time funding for the working land conservation covenant or easement is formally approved shall govern throughout the term of the easement or covenant unless changes are mutually agreeable to both parties.

698-XXX-0150

Grant Reporting Requirements for Covenants

Upon completion of the term of a working land conservation covenant, 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.

Comment [ML46]: Commission: allows for reimbursement of costs for projects that closed before a grant cycle.

Comment [NM47]: Commission: Consider as an admin rule for the entire program

Comment [NM48]: Commission: Also for CMP rules, or modified?

Comment [NM49]: Bari Williams: I recommend adding a monitoring and enforcement process overview at the beginning of this section.

I’m assuming there will be requirements to follow the easement and covenant terms here.

It would be good to have general timelines to give applicants expectations, that can be extended due to approved circumstances. For example, most violations should be addressed within 30 days. If the applicant has not commenced corrective action within 180 days then the Director may initiate action.

The commission may want to consider defining “significant” and “full satisfaction”. Is this based on the Grantors interpretation or Easement holder?

Is it the easement holders responsibility to notify OAHB of violations and follow up with corrective action plans if the violations are not “significant”?

Does OAHB require the easement holder to provide them with an annual monitoring report? Or will the easement holder only notify OAHB for enforcement?

Comment [NM50]: Or narrow down

Comment [NM51]: Tom Salzer

Comment [ML52]: Borrowed from CMP rules. Possibly move to the OAHB administrative rules that apply to all of the various programs and leave it out of this specific division.

698-XXX-0160

Payment Relationship Between Covenants and Easements

Comment [ML53]: Commission: options for consideration

OPTION 1:

If a covenant is funded through the Oregon Agricultural Heritage Program and a later application is submitted for the same property for a conservation easement:

- 1) If the term of the covenant has not expired, the fair market value of the easement will be reduced by a proportion equivalent to the time remaining on the conservation easement.
- 2) If the term of the covenant has expired, no reduction of fair market value will be taken for the conservation easement.

OPTION 2:

If a covenant is funded through the Oregon Agricultural Heritage Program, and a later application is submitted for the same property for a conservation easement, once the fair market value is calculated, the payment for the easement will be reduced by an amount equivalent to the value paid for the covenant.

698-XXX-0170

Subsequent Conveyances

Subsequent conveyances of working land conservation covenants or easements acquired with OWEB grant funds by the easement or covenant holder must strictly comply with the requirements of (ORS XXX XXX) and these rules, including the requirement that subsequent conveyances be made subject to prior approval by the Commission and that subsequent conveyances shall not result in profit to the holder.

Comment [NM54]: And/or OWEB Board?

698-XXX-0180

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 Working Land Conservation Covenant and Easement Grant. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the Commission within a reasonable time. The administrative rules for Working Land Conservation Covenant and Easement Grants shall be periodically reviewed by the Commission and revised as necessary and appropriate.

Division XXX
Working Land Technical Assistance Grants

698-XXX-0010

Purpose

The Oregon Agricultural Heritage Commission (Commission) shall ~~may~~ provide grant funding for development or technical assistance to organizations that enter into or propose to enter into agreements resulting in conservation management plans, or that accept or propose to accept working land conservation covenants or working land conservation easements. Grant funding must support the public benefits in OAR 698-XXX-0010 {Administration rules}.

Comment [NM1]: Change to "may"?

Comment [NM2]: In statute, remove?

698-XXX-0020

Definitions

(1) "Technical assistance" means supporting the development of working land projects or programs as described in ORS XX and XX and OAR 698 division xx and xx.

Comment [EH3]: CMP and covenants/easement divisions.

(2) "Underserved population" is a group whose members have been subject to discrimination based on their identity as a member of a group, without regard to their individual qualities.

Comment [NM4]: Added at Commission's earlier request. See also USDA's definition of socially disadvantaged farmer/rancher – only applies to race and ethnicity

698-XXX-0030

Eligibility

Eligible applicants for Technical Assistance Grants are:

- 1) Entities eligible to hold a conservation easement, as defined in ORS 271.715, other than a state agency;
- 2) Watershed councils; or
- 3) Nonprofit entities that are tax exempt under section 501(c)(3) of the Internal Revenue Code.

Comment [NM5]: Tom Salzer: I think this is too fuzzy. What definition will be used? It means different things to different people. I would either define exactly what is intended, or use a different word or phrase such as "...have been subject to inequity, prejudice, or unfair treatment based on ..."

Individual agricultural owners or operators and individual persons advising them are not eligible to apply for a Technical Assistance Grant.

Comment [NM6]: Brad Paymar: Do you want to add something here about their primary purpose being the protection and/or stewardship of land? Though that is covered under 1b in Evaluation Criteria

698-XXX-0040

Application Requirements

Technical Assistance Grant applications shall be consistent with OAR 698-XXX {OAH Admin Rules}.

698-XXX-0050

Technical Assistance Activities

- 1) Technical Assistance Grant cannot be used to fund specific conservation management plans, working land conservation covenants, or working land conservation easements.
- 2) The Commission will only consider technical assistance projects that will lead to or are likely to lead to the development of conservation management plans, working land conservation covenants, or working land conservation easements.

Comment [NM7]: In Guidance: projects include
●outreach, education,
●staff and board training,
●engagement in community activities, and
●other investments in infrastructure and staff time to support the development of the program

698-XXX-0070

Evaluation Criteria

Technical Assistance Grants will be evaluated on:

- 1) The extent to which the proposal will improve the entity and/or its partner's ability to enter into conservation management plans, or enter into working lands covenants or easements.
- 2) The extent to which the outcomes of the technical assistance project would lead to projects or programs that:
 - a. Protect, maintain, or enhance farming or ranching on working land;
 - b. Protect, maintain, or enhance significant fish or wildlife habitat;
 - c. Protect significant agricultural outcomes, benefits, or other investment gains;
 - d. Maximize the benefit to the state based on the ability to leverage grant moneys with other funding sources; and
 - e. Limit negative and maximize positive impacts on owners or operators of neighboring lands.
- 3) The extent to which the applicant demonstrates a plan to engage one or more underserved populations;

Comment [NM8]: Define social benefits associated with continued ag use, and "investment gains" (might refer to surrounding agricultural infrastructure)

698-XXX-0080

Technical Review and Funding Process

- 1) Technical review of Technical Assistance Grant applications shall occur based on information provided in the grant application.
- 2) Applications shall be evaluated according to criteria described in OAR 698-XXX-0070.
- 3) The Commission may use technical committees to evaluate technical assistance grant applications.
- 4) If a technical committee is used, the technical committee shall provide ranking recommendations to OWEB staff, who will review technical committee recommendations and provide funding recommendations to the Commission. If a technical committee is not used, OWEB staff will provide funding recommendations to the Commission.
- 5) The Commission may rank projects and shall provide funding recommendations to the Board.
- 6) The Board approves Technical Assistance Grants. The Board may fund a grant application in whole or in part.

698-XXX-0090

Grant Agreement Conditions

- 1) 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.

Comment [NM9]: Brad Paymar: I would incorporate this into the second point, which should focus on modifications.

- 2) 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, the proposed activity is within the same geographic area, and the modification would be compatible with acknowledged comprehensive plans.
- 3) The Director may authorize minor changes within the scope of the original project plan.
- 4) The Grantee must submit a report at completion of the project in accordance with reporting requirements described in the grant agreement.
- 5) Rules and conditions in place at the time funding for the technical assistance grant is formally approved shall govern throughout the term of the project unless changes are mutually agreeable to both parties.

698-XXX-0100

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 Technical Assistance Grant program. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the commission within a reasonable time. The administrative rules for Technical Assistance Grants shall be periodically reviewed by the commission and revised as necessary and appropriate.

Division XXX Succession Planning Grants

698-XXX-0010

Purpose

The Oregon Agricultural Heritage Commission (Commission) shall provide funding recommendations to the Oregon 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. Recommendations and grant funding must support the program purpose in OAR 698-XXX-0010 {Administrative rules}.

Comment [NM1]: Change in statute to "may"?

Comment [NM2]: Purpose statement moved to general admin rules

698-XXX-0020

Definitions

- (1) "Agricultural cooperative" means a cooperative corporation formed in accordance with the Oregon Cooperative Corporation Act for the benefit of agricultural owners or operators.
- (2) "Succession planning" means an ongoing process for ensuring the continuation and economic viability of a business over generations of owners or operators. It may include strategies to identify, develop, and empower the next generation of owners or operators, a plan to transfer business and family assets, and arrangements for each generation's retirement and long-term care. Succession plans are fluid and may be reviewed and updated throughout the existence of the business.

Comment [NM3]: Definitions in Administrative Rules also apply here.

Comment [NM4]: Statutory fix to make this program apply to ag owners or operators

698-XXX-0030

Succession Planning Priorities

The Commission may establish priorities for Succession Planning Grants in guidance, which may be used to solicit and rank program grant applications and make recommendations to the Oregon Legislative Assembly. The Commission may modify these priorities from time to time at its discretion.

698-XXX-0040

Applicant Eligibility

- (1) Eligible applicants for Succession Planning Grants are:
 - (i) Public institutions of higher learning,
 - (ii) Nonprofit entities that are tax exempt under section 501(c)(3) of the Internal Revenue Code,
 - (iii) Units of local government,
 - (iv) Tribes, and
 - (v) Agricultural cooperatives

DRAFT Document

- (2) Individual agricultural owners or operators and individual persons advising them are not eligible to apply for a Succession Planning Grant.

698-XXX-0050

Application Requirements

Succession Planning Grant applications shall:

- (1) Be consistent with OAR 698-XXX-0010 *{Administrative Rules}*;
- (2) Not require match contributions; and
- (3) Comply with Oregon Agricultural Heritage Program general grant application requirements in OAR 698-XXX-0030, *{Administrative Rules}*

698-XXX-0060

Eligible Activities

The following activities benefitting agricultural owners or operators in Oregon and the persons who advise them are eligible for Succession Planning Grants:

- (1) Education and outreach about the importance of succession planning and available resources,
- (2) Trainings on topics related to succession planning,
- (3) Development and distribution of educational materials and curriculum related to succession planning, and
- (4) Advising agricultural owners or operators on succession planning.

698-XXX-0070

Evaluation Criteria

Succession Planning Grant applications will be evaluated on:

- (1) The extent to which the proposed project would help achieve the purpose of this grant program as identified in OAR 698-XXX-0010 *{Administrative Rules}*,
- (2) The capacity and competence of the applicant to deliver the proposed program.
- (3) The applicant's relevant background and experience in delivering successful succession planning programs, including prior programs funded through this grant program and projects funded outside this grant program.

Comment [NM5]: From CMP and Easement/Covenant rules

- (4) The cost-effectiveness of the proposed project,
- (5) The extent to which the application reaches diverse audiences, including: producers of diverse commodities, agricultural owners or operators in diverse geographic locations in Oregon, and participants in diverse stages of succession planning. The Commission may also consider the extent to which a suite of approved grant projects will combine to reflect this diversity.
- (6) The extent to which the project introduces participants to conservation tools as resources for succession planning.

Comment [NM6]: Remove as with CMP and easement/covenant?

698-XXX-0080

Succession Planning Grant Application Technical Review and Funding Process

- (1) The Commission may fund projects submitted through an open solicitation for applications, or by requesting applications from one or more specific eligible entities.
- (2) Technical review of Succession Planning Grant applications shall occur based on information provided in the grant application.
- (3) Applications shall be evaluated according to criteria described in OAR 698-XXX-0070.
- (4) The Commission may use technical committees to evaluate Succession Planning Grant applications.
- (5) If a technical committee is used, the technical committee shall provide ranking recommendations to OWEB staff. OWEB staff will review technical committee recommendations and provide recommendations to the Commission.
- (6) The Commission may rank projects and shall provide funding recommendations to the Board.
- (7) The Board may fund a grant application in whole or in part.

698-XXX-0090

Grant Agreement Conditions

- (1) The grantee must submit a report at completion of the project describing the work completed as described in OAR 698-XXX-0100.
- (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.

698-XXX-0100

Grant Funding Conditions

All succession Planning Grant agreements authorized by the Board shall have a clause that requires the retention of up to ten percent of project funds until the final report, as required in the grant agreement, has been approved. Final reports are due within 60 days of project completion. Any unexpended OAHP funds must be returned to the Commission with the final report. Upon receipt of the final report, the Commission shall have 90 days to approve the completed report or notify the Grantee of any concerns that must be addressed or missing information that must be submitted before the report is considered complete and reviewed for approval. Once the final report has been approved the final payment shall be promptly processed.

698-XXX-0100

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 agricultural owners or operators 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, commodity, and other demographic diversity of participants in the program;
 - (iii) Documented improved understanding of succession planning by program participants;
 - (iv) Documented measurable changes in behavior of participants, including the percentage or number of owners of working lands who take the next step toward succession planning, complete a plan, and implement the plan;
 - (v) Documented improved understanding by participants of tools to prevent fragmentation of working land, reduce conversion of working land from agricultural production and promote economic viability and ecological sustainability of agricultural operations; and
 - (vi) Other documentation of the project's success in contributing to achieve the purpose of this grant program.

DRAFT Document

- (3) The OWEB Director or the Commission may authorize an independent performance audit of any Succession Planning Grantee, and if the Director determines the grantee is not complying with the rules of the Succession Planning Grant 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 agricultural owners or operators on the status of succession plans, and other trends in working land ownership and use.

698-XXX-0110

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 Succession Planning Grant program. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the Commission within a reasonable time. The administrative rules for Succession Planning Grants shall be periodically reviewed by the Commission and revised as necessary and appropriate.

Division XXX
Oregon Agricultural Heritage Program Administration

698-XXX-0010

Purpose

These rules guide the Oregon Agricultural Heritage Commission and the Oregon Watershed Enhancement Board in fulfilling their duties under the provisions of ORS 541.977-ORS 541.989. The Oregon Agricultural Heritage Program (OAHP) includes grants for working land succession planning, technical assistance, conservation management plans, working land conservation covenants, and working land conservation easements.

The purpose of OAHP is to contribute to the public benefits of:

- 1) Increased economic viability of Oregon agricultural operations and economic sector;
- 2) Reduced fragmentation of Oregon's working land;
- 3) Reduced conversion of Oregon's working land land ~~to nonfarm uses~~ from agricultural production; and
- 4) Enhanced fish and wildlife habitat, water quality, and other natural resources on Oregon's working land.

Comment [NM1]: Taken from whereas statement of HB 3249

698-XXX-0020

Definitions

- 1) "Agricultural owner or operator" means a landowner, operator, manager or other person having responsibility for exercising control over the day-to-day operation of a farm or ranch.
- 2) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.900.
- 3) "Commission" means the Oregon Agricultural Heritage Commission created under ORS 541.986.
- 4) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.
- 5) "Fragmentation" is the division of a working farm or ranch into smaller parcels, or the isolation of a farm or ranch from other agricultural operations and/or from the agricultural infrastructure necessary to bring farm products to their appropriate markets.
- 6) "Grant Agreement" is the legally binding contract between the Board and the grant recipient. It consists of the conditions specified in these rules, 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.
- 7) "OWEB" means the Oregon Watershed Enhancement Board state agency.
- 8) A "Technical committee" is a team of individuals who have expertise relevant to the ranking of OAHP grants, or other issues before the Commission.

- 9) “Working land” means land that is actively used by an agricultural owner or operator for an agricultural operation that includes, but need not be limited to, active engagement in farming or ranching.
- 10) “Working land conservation covenant” means a nonpossessory interest in working land for a fixed term that imposes limitations or affirmative obligations for the purposes that support the use of the land for agricultural production and for the maintenance or enhancement of fish and wildlife habitat, improvement of water quality or support of other natural resource values.
- 11) “Working land conservation easement” means a permanent nonpossessory interest in working land that imposes limitations or affirmative obligations for purposes that support the use of the land for agricultural production and for the maintenance or enhancement of fish and wildlife habitat, improvement of water quality or support of other natural resource values.

698-XXX-0030

Application Requirements

- 1) Applications must be submitted on the most current form prescribed by the Commission. Current applications are available on the OWEB website. An explanation must accompany the application if any of the information required on the application cannot be provided. In addition to the information required in the application and the required attachments, an applicant may submit additional information that will aid the Commission in evaluating the project.
- 2) All applicants for Oregon Agricultural Heritage Program grants shall supply the following information:
 - a. Names, physical and email addresses, and telephone numbers of the applicant contact person(s) and the fiscal officer(s);
 - b. Name and address of participating agricultural owners or operators;
 - c. Name and location of the proposed project. The location shall be described in reference to the public land survey, latitude and longitude using decimal degrees, North American Datum 1983, county, watershed, or stream mile, as appropriate;
 - d. Estimated line item budget for the project using the most current budget form prescribed by the Commission. Current budget forms are available on the OWEB website;
 - e. Identification of specific project elements for which OAHP funds will be used;
 - f. A list of any non-OAHP funds, services or materials available or secured for the project and any conditions which may affect the completion of the project;
 - g. If the project is part of a multi-year project, and a new funding request continues a previously Commission-funded activity, a description of the previous project accomplishments and results as well as an accounting of past expenditures and revenues for the project;

- h. Identification of volunteers and partners (if any) and the contribution they will make to the project;
 - i. A project schedule including times of project beginning and completion; and
 - j. Any information requested that is necessary to evaluate the project based on the evaluation criteria for that project type.
- 3) All applications that involve physical changes or monitoring on private land must include certification from the applicant that the applicant has informed all participating landowners of the existence of the application and has also advised all landowners that all monitoring information obtained on their property is public record. If contact with all landowner was not possible at the time of application, explain why.
 - 4) Applications will be considered complete as submitted. Clarification of information may be sought from the applicant during the evaluation process but additional, new information will not be accepted after the application deadline.

698-xxx-0040

Application Processing

- 1) Project applications will be reviewed based on application completeness and the evaluation criteria adopted by the Board for each grant type in these rules.
- 2) The Commission may require additional information to aid in evaluating and considering a proposed watershed project.

698-xxx-0050

Grant Agreement Conditions

- 1) The Board will enter into new agreements with prior Grantees only if all reporting obligations under earlier agreements have been met.
- 2) If the grant agreement has not been fully executed by all the parties within one year of Board approval, funding shall be terminated. The money allocated to the grant shall be available for reallocation by the Board.
- 3) The Director shall establish grant agreement conditions for each grant type. Grantees shall comply with all grant agreement conditions.
- 4) The Grantee shall comply with all federal, state and local laws and ordinances applicable to the work to be completed under the agreement.
- 5) Upon notice to the Grantee in writing, the Director 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.
- 6) The Grantee will account for funds distributed by the Board, using project expense forms provided.

- 7) The Grantee will obtain the necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy to the Board.
- 8) The Board may place additional conditions in the Grant Agreement as necessary to carry out the purpose of the program, including:
 - a. A commitment by the agricultural owner or operator 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 as required; and
 - d. Such other conditions as the Board deems appropriate to the particular circumstances of the project.

698-xxx-0060

Distribution of Funds

- 1) The Director may withhold payments to a Grantee in a situation where there are significant and persistent difficulties with satisfying Board requirements.
- 2) Funds will be released upon presentation of a completed fund release request form accompanied by documents as determined by the Director, and proof of completion of specific work elements of the project as identified in the Grant Agreement.
- 3) Advance funds may be released upon presentation of a detailed estimate of expenses for up to 120 days. Within 120 days of the date of the advance check, receipts or invoices for the advance must be submitted, a justification to extend the advance must be approved, or the unexpended advance funds must be returned to the Commission. Additional funds will not be released until receipts for expenditures of previous fund releases are submitted, or an estimate of expenditures is approved by the Director.

Division 698-XXX-0070

Technical Committees

In addition to technical committees established by the Board and Commission to rank and evaluate conservation management plan and working land conservation covenant and easement grant applications, the Commission may establish any technical committees it considers necessary to aid and advise the Commission in the performance of its functions, in compliance with ORS 541.988(2) and (3).

698-xxx-0080

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 Oregon Agricultural Heritage Program. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the Commission within a reasonable time. The administrative rules for the Oregon Agricultural Heritage Program shall be periodically reviewed by the commission and revised as necessary and appropriate.



Issue Paper: Eligibility to Apply for Oregon Agricultural Heritage Program Conservation Covenant and Easement Grants

Statutory Requirements

HB 3249 authorizes OWEB to grant funds for acquisition of a working land conservation covenant or easement “to an organization that is a holder, as defined in ORS 271.715, other than a state agency.” These organizations may be a: county, metropolitan service district; soil and water conservation district; city or park recreation district, certain types of county service district, charitable corporation, association, or trust; watershed council; or Indian tribe. For a charitable organization to qualify, its purpose must include “retaining or protecting the natural, scenic, or open space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.”

OAHP Draft Rules

One of the mandatory evaluation criteria for working land conservation covenants and easements (as well as conservation management plans) is: “The capacity of the organization that filed the application to enter into a conservation management plan, accept a working land conservation covenant or working land conservation easement, and the competence of the organization.” The draft rule that the Oregon Agricultural Heritage Commission will consider at their May meeting to define this statutory criterion is:

“The capacity and competence of the organization that filed the application to create, hold, monitor, steward, and enforce a working land conservation covenant or working land conservation easement, including:

- a) Accreditation from the Land Trust Accreditation Commission, or implementation of similar standards and practices to an organization eligible for accreditation;
- b) Inclusion of land preservation in the organization’s mission, vision or other organizational documents;
- c) The financial capability of the organization to steward conservation covenants and easements over time;
- d) Demonstrated relevant commitment, expertise, and track record to own, monitor, steward, and enforce conservation covenants and easements or other relevant projects; and
- e) The strength of the organization as measured by effective governance.”

The Land Trust Accreditation Commission, referred to in (a), requires that the land trust to have been in existence for at least two years. The certification process is rigorous and includes evaluation of board recruitment and training procedures; board size, skills, and experience; the board oversight role, frequency of meetings, presence of briefing materials and minutes; conflict of interest policies; dispute resolution processes; and results of an annual audit. The trust has to have in hand at least \$3,500 in restricted funds for stewardship for each easement and must carry directors' insurance, liability insurance and property insurance. In addition, many details of the organization's budget, easement transactions, and monitoring are evaluated.

Land Trust Alliance standards and practices address:

1. Ethics (including a written code of ethics and a written whistleblower policy), mission (including strategic goals reviewed annually), and community engagement;
2. Compliance with laws, including those governing nonprofit organizations and federal tax exemption;
3. Board accountability, including oversight and personnel practices, board composition and structure, recruitment and training, and details of governance;
4. Conflicts of interest, including a written policy on how conflicts of interest are avoided and managed;
5. Fundraising, including ethical practices and accountability to donors.
6. Financial oversight, including financial records, oversight, internal controls and insurance;
7. Human resources, including capacity, volunteer management, and staffing policies.
8. Evaluating and selecting conservation projects, including planning, evaluation and public benefit;
9. Ensuring sound transactions, including legal, financial and technical support; easement drafting; and due diligence;
10. Tax benefits and appraisals;
11. Conservation easement stewardship, including baseline documentation, monitoring, landowner relationships, enforcement, and amendments; and
12. Fee land stewardship.

ACEP/ALE Requirements

The Agricultural Conservation Easement Program-Agricultural Land Easements (ACEP-ALE) administered by the Natural Resources Conservation Service, is a likely source of matching funds for OAHP grants. Entities eligible for these grants are state and local government agencies, nonprofit 501(c)(3) organizations, and federally recognized Indian tribes. Nonprofit organizations must have been in existence for at least one year and:

- Be organized and operated principally for conservation
- Have the authority to acquire, hold, manage, and enforce conservation easements
- Have an established farmland conservation program that purchases conservation easements
- Have demonstrated a commitment to the long-term conservation of agricultural lands
- Not be delinquent in responsibilities for previous agreements

The organization must have its share of the funding on hand, have an agricultural land easement plan prior to closing, and must have funding and capacity dedicated to monitoring, stewardship and enforcement.

Eligibility Requirements for ACEP-ALE Participation and LTAC Certification

Criterion: HB 3249

Conservation Purposes

For a charitable corporation, association, or trust, purposes/powers include: 1) retaining or protecting natural, scenic, or open space values of real property, 2) assuring availability of real property for agriculture, forest, recreation, or open space, 3) protecting nat. resources, 4) maintaining or enhancing air/ water quality, or 5) preserving historical, architectural, archaeological, or cultural aspects

Structure

- County
- Metropolitan service district
- SWCD
- City or park recreation district
- A charitable corporation, association, or trust
- Watershed council
- No fed/state agency

Criterion: Draft Rule

Conservation Purposes

- The organization's mission must include land preservation
- Demonstrated relevant commitment (might be demonstrated by mission/vision), expertise, and track record to own and steward conservation covenants and easements or other relevant projects

Structure

- Allowed to hold a conservation easement by statute, and
- Accredited by Land Trust Accreditation Commission or eligible for accreditation and implementing similar standards and practices

Governance

Effective governance

Finance

Financial capability to steward conservation covenants and easements over time

Stewardship and Monitoring

Financial capability to steward conservation covenants and easements over time

Criterion: Land Trust Accreditation Commission Certification

Years in Existence

2 years or more

Governance

Board Structure and Operations

- Recruitment procedures
- Board training
- Size, skills, experience
- Oversight

Board Meetings

- 3 or more times/yr
- Briefing materials
- Minutes

Strategic Goals

Established by board

Conflict of Interest

- Policy established
- Process for resolution

Finance

Annual audit

Stewardship and Monitoring

- Has at least \$3,500 in restricted funds per easement
- Management plan for each property
- Easements monitored at least annually
- Has enforcement policies and procedures

Insurance

Directors, liability, property

Criterion: ACEP-ALE

Years in Existence

1 Year or More

Conservation Purposes

- Is organized and operated principally for conservation (NGO)
- Has the authority to acquire, hold, manage and enforce conservation easements
- Has an established farmland conservation program that purchases conservation easements
- Has a demonstrated commitment to the long-term conservation of agricultural lands
- Not delinquent in responsibilities for previous agreements

Structure

- State or local government
- 501(c)(3)
- Tribes federally recognized or having a 501(c)(3)

Governance

Finance

Has available funds for the entity's contribution

Stewardship and Monitoring

- Has an agricultural land easement plan prior to closing
- Has capacity and funding dedicated to monitoring, stewardship and enforcement

Eligibility Requirements for ACEP-ALE Participation and LTAC Certification

Criterion	HB 3249	Draft Rule	Land Trust Accreditation Commission Certification	ACEP-ALE
Years in existence			<ul style="list-style-type: none"> • 2 years or more 	<ul style="list-style-type: none"> • 1 year or more
Conservation purposes	<ul style="list-style-type: none"> • For a charitable corporation, association, or trust, purposes/powers include: 1) retaining or protecting natural, scenic, or open space values of real property, 2) assuring availability of real property for agriculture, forest, recreation, or open space, 3) protecting nat. resources, 4) maintaining or enhancing air/ water quality, or 5) preserving historical, architectural, archaeological, or cultural aspects 	<ul style="list-style-type: none"> • The organization’s mission must include land preservation • Demonstrated relevant commitment (might be demonstrated by mission/vision), expertise, and track record to own and steward conservation covenants and easements or other relevant projects 		<ul style="list-style-type: none"> • Is organized and operated principally for conservation (NGO) • Has the authority to acquire, hold, manage and enforce conservation easements • Has an established farmland conservation program that purchases conservation easements • Has a demonstrated commitment to the long-term conservation of agricultural lands • Not delinquent in responsibilities for previous agreements
Structure	<ul style="list-style-type: none"> • County • Metropolitan service dist. • SWCD • City or park recreation dist. • A charitable corporation, association, or trust • Watershed council • No fed/state agency 	<ul style="list-style-type: none"> • Allowed to hold a conservation easement by statute, and • Accredited by Land Trust Accreditation Commission or eligible for accreditation and implementing similar standards and practices 		<ul style="list-style-type: none"> • State or local government • 501(c)(3) • Tribes federally recognized or having a 501(c)(3)

Governance		<ul style="list-style-type: none"> • Effective governance 		
Board structure and operations			<ul style="list-style-type: none"> • Recruitment procedures • Board training • Size, skills, experience • Oversight 	
Board meetings			<ul style="list-style-type: none"> • 3 or more times/yr • Briefing materials • Minutes 	
Strategic goals			<ul style="list-style-type: none"> • Established by board 	
Conflict of interest			<ul style="list-style-type: none"> • Policy established • Process for resolution 	
Finance		<ul style="list-style-type: none"> • Financial capability to steward conservation covenants and easements over time 	<ul style="list-style-type: none"> • Annual audit 	<ul style="list-style-type: none"> • Has available funds for the entity's contribution
Stewardship & monitoring		<ul style="list-style-type: none"> • Financial capability to steward conservation covenants and easements over time 	<ul style="list-style-type: none"> • Has at least \$3,500 in restricted funds per easement • Management plan for each property • Easements monitored at least annually • Has enforcement policies and procedures 	<ul style="list-style-type: none"> • Has an agricultural land easement plan prior to closing • Has capacity and funding dedicated to monitoring, stewardship and enforcement
Insurance			<ul style="list-style-type: none"> • Directors, liability, property 	

Eligibility Requirements for ACEP-ALE Participation and LTAC Certification

Criterion	HB 3249	Draft Rule	Land Trust Accreditation Commission Certification	ACEP-ALE
Years in existence			<ul style="list-style-type: none"> • 2 years or more 	<ul style="list-style-type: none"> • 1 year or more
Conservation purposes	<ul style="list-style-type: none"> • For a charitable corporation, association, or trust, purposes/powers include: 1) retaining or protecting natural, scenic, or open space values of real property, 2) assuring availability of real property for agriculture, forest, recreation, or open space, 3) protecting nat. resources, 4) maintaining or enhancing air/ water quality, or 5) preserving historical, architectural, archaeological, or cultural aspects 	<ul style="list-style-type: none"> • The organization’s mission must include land preservation • Demonstrated relevant commitment (might be demonstrated by mission/vision), expertise, and track record to own and steward conservation covenants and easements or other relevant projects 		<ul style="list-style-type: none"> • Is organized and operated principally for conservation (NGO) • Has the authority to acquire, hold, manage and enforce conservation easements • Has an established farmland conservation program that purchases conservation easements • Has a demonstrated commitment to the long-term conservation of agricultural lands • Not delinquent in responsibilities for previous agreements
Structure	<ul style="list-style-type: none"> • County • Metropolitan service dist. • SWCD • City or park recreation dist. • A charitable corporation, association, or trust • Watershed council • No fed/state agency 	<ul style="list-style-type: none"> • Allowed to hold a conservation easement by statute, and • Accredited by Land Trust Accreditation Commission or eligible for accreditation and implementing similar standards and practices 		<ul style="list-style-type: none"> • State or local government • 501(c)(3) • Tribes federally recognized or having a 501(c)(3)

Governance		<ul style="list-style-type: none"> • Effective governance 		
Board structure and operations			<ul style="list-style-type: none"> • Recruitment procedures • Board training • Size, skills, experience • Oversight 	
Board meetings			<ul style="list-style-type: none"> • 3 or more times/yr • Briefing materials • Minutes 	
Strategic goals			<ul style="list-style-type: none"> • Established by board 	
Conflict of interest			<ul style="list-style-type: none"> • Policy established • Process for resolution 	
Finance		<ul style="list-style-type: none"> • Financial capability to steward conservation covenants and easements over time 	<ul style="list-style-type: none"> • Annual audit 	<ul style="list-style-type: none"> • Has available funds for the entity's contribution
Stewardship & monitoring		<ul style="list-style-type: none"> • Financial capability to steward conservation covenants and easements over time 	<ul style="list-style-type: none"> • Has at least \$3,500 in restricted funds per easement • Management plan for each property • Easements monitored at least annually • Has enforcement policies and procedures 	<ul style="list-style-type: none"> • Has an agricultural land easement plan prior to closing • Has capacity and funding dedicated to monitoring, stewardship and enforcement
Insurance			<ul style="list-style-type: none"> • Directors, liability, property 	



Oregon Agricultural Heritage Commission

Wednesday, May 23, 2018

Materials for Today's Meeting

- ▶ Agenda
- ▶ Minutes
- ▶ Draft Rules for Conservation Management Plan
- ▶ Draft Rules for Easement and Covenant
- ▶ Draft Rules for Succession Planning
- ▶ Draft Rules for Technical Assistance
- ▶ Draft Admin Rules
- ▶ Summary of ACEP-ALE and Land Trust Accreditation Committee standards
- ▶ Katherine Daniels Comment
- ▶ Public comment

Conservation Management Plan Rules

Purposes 0010

- ▶ Statute purpose for CMP
- ▶ Rule purpose for OAHP
- ▶ Statute permissive provisions: soil, water, plants, animals, energy and human need considerations.

Definition 0020

“Mutual Modification” means a change to a conservation management plan that is:

- (1) Material to the plan as defined in section XX11(6); and
- (2) Agreed to by both the agricultural owner or operator implementing the plan and the conservation management plan holder.

Conservation Management Plan Rules

Eligibility 0030

Edit:

~~“Individual agricultural owners or operators and individual persons advising them are not eligible to apply for a Conservation Management Plan Grant”~~

Components 0070

Added: (9) If applicable, a maintenance plan for infrastructure that may affect neighboring lands if not maintained over time;

Edited: (12) A conflict resolution protocol **for the agricultural owner or operator and the grantee** if plan implementation is being funded

Conservation Management Plan Rules

Criteria 0080

Dean Moberg: Most of the criteria require a plan to already be mostly completed. May be too late to change things drastically, but it seems like these criteria would work to prioritize which plans are funded for implementation. Maybe the criteria for funding staff to complete plans should be something like the NRCS CIS approach, in which a SWCD would develop an area-wide plan at their own cost and then apply to OWEB for funds to write individual conservation plans. Finally, the grantee could apply for funds to implement those plans.

1) The significance of the agricultural, ecological, and social values of the working land subject to the conservation management plan.

Guidance would include: Integration of agriculture and conservation that increase protection of both

Does this address the commission's concern?

2) The extent to which the implementation of the plan(s) will contribute to the agricultural, ecological, and social values of the surrounding area.

Reworded to allow clustering of projects, early adopters in areas with few plans, recruitment of other working lands projects, and account for parcel size vs. number of projects.

This might be covered in 4b&c, 5, 7c&d, and 8a

Conservation Management Plan Rules

Criteria 0080

3) The extent to which implementation of the plan(s) would protect, maintain, or enhance farming or ranching on working land, including how implementation of the plan would

3) b) Changed “non-farm use” to “conversion from agricultural uses on, the working land subject to the plan”

4) The extent to which implementation of the plan would protect, maintain, or enhance significant fish or wildlife habitat, improve water quality, or support other natural resource values

Guidance for 4) a) is

- ▶ Increased soil health
- ▶ Increased carbon sequestration
- ▶ Increased water quality
- ▶ Increased ecosystem function and resilience
- ▶ Strategies to protect vulnerable species, species of concern, and/or ESA listed species, but does not necessarily create a single-species management plan
- ▶ This does not exclude forestry

Conservation Management Plan Rules

Criteria 0080

5) The extent to which implementation of the plan(s) would protect significant agricultural outcomes, benefits, or other investment gains, including **the role that the working land subject to the plan plays in the local community or economy**

Or change “the role...” to “The regional importance of the agricultural operation and land base” to be consistent with easement/covenant

Define benefits, investment gains (ag infrastructure)

6) The capacity and competence of the organization that filed the application to enter into and (if implementation funding is awarded) oversee implementation of a conservation management plan

- ▶ Financial Capacity
- ▶ Commitment, expertise and track record
 - ▶ Mission, vision, other statement
- ▶ Strength/Effective governance

Conservation Management Plan Rules

Criteria 0080

6) c) The strength of the organization as measured by effective governance

- ▶ Agricultural owners or operators on the Board;
- ▶ Dedicated staff capacity (e.g. in their job description and work plan), staff training, and years of experience
- ▶ If implementation funding is awarded, ability to manage staff transitions and a plan to assign project administration to another entity if needed
- ▶ Working relationships with funders, project partners, and the community.

7) The extent to which the benefit to the state may be maximized

- ▶ Leverage
- ▶ Duration
- ▶ Cumulative benefits of other investments in the community/**region/area (define) – Dean M. unnecessary? Hard to quantify? Move to guidance?**
- ▶ Setting an example to encourage more projects

8) ~~The extent and nature of the impacts of plan implementation on owners or operators of neighboring lands~~

- ▶ Positive and negative
- ▶ A plan for communicating with neighboring landowners once the conservation management plan(s) is/are ready to be implemented about how to mitigate any negative impacts
- ▶ A maintenance plan or plans for infrastructure that may impact neighboring lands if not maintained over time.
 - ▶ **Dean M.** Maintenance plans should use affordable, feasible, and effective methods.

Conservation Management Plan Rules

0090 Technical Review and Funding Process

(5) The technical committee(s) shall provide ranking recommendations to OWEB staff. OWEB staff will review technical committee recommendations and provide funding recommendations to the Commission.

(6) The Commission shall review and consider the recommendations of the technical committee(s) appointed under 698-XXX-0040(4) and consult with the Board concerning grant applications.

0100 Grant Agreement Conditions

(1) Grant funding is subject to the signed statement of understanding and agreement by the participating agricultural owner(s) or operator(s) to the roles and responsibilities under the conservation management plan.

(5) Rules and conditions in place at the time the conservation management plan is formally adopted shall govern throughout the term of the plan unless changes are mutually agreeable to both parties. **Tom Salzer**

0110 Mutual Modifications

(1) Any changes to conservation management plans must achieve the same or greater level of benefits as the original plan, as evaluated by the criteria in 698-XXX-0080. **Dean Moberg**

(5) The agricultural owner or operator must contact the grantee **immediately** if any of the following changes occur that will impact either implementation of the conservation management plan or its expected outcomes. **Tom Salzer**

0120 CMP Monitoring

(5) The Commission may conduct spot checks to ensure management plan implementation as identified in the plan and associated reporting. **The agricultural owner or operator shall allow site access upon reasonable notification** by the Commission. **Tom Salzer**

Covenant/Easement Rules

0010 Purpose

Move purpose to admin statute

0020 Definitions

- ▶ Bargain Sale
- ▶ Management Plan (from OWEB acquisition definition)
- ▶ Profit
- ▶ Stewardship Endowment

0030 Eligible Entities

- ▶ Statutory definition
- ▶ No individuals
- ▶ **Bari Williams:** Consider adding a criterion that the entity has the authority to purchase and hold agricultural easements with an established program to manage ag easements. Thereby limiting the eligible applicants to those with the purpose of protecting agricultural in their foundational bylaws.

Covenant/Easement Rules

0040 Application

3) The Commission may consider proposals that are received for properties that were acquired by the applicant after the previous application deadline. **Is this OK?**

0050 Match

25% of all costs?

Eligible match funds and activities:

- ▶ In-kind contributions to activities listed under OAR 698-XXX-0060;
- ▶ Funding commitments made by others as a result of grant applicant efforts;
- ▶ The donated portion of a bargain sale; and
- ▶ Funds deposited in a stewardship endowment before the time that OWEB funds are released for acquisition of the property.

Covenant/Easement Rules

0060 Use of Grant Funds

Statute states “purchasing, implementing, carrying out or monitoring of the covenant or easement.”

- 10) Funding for a stewardship endowment. (Consider higher match requirement)

0070 Covenant Term

- 2) 12-month increments only and not partial years
- 3) The first day of the term of a covenant shall be the date that both of these event have occurred:
 - ▶ The covenant holder and the agricultural owner or operator conveying the covenant sign the agreement; and
 - ▶ Consideration has been paid for the covenant.

Covenant/Easement Rules

0080 Evaluation Criteria

Bari Williams: It would be beneficial to have an overview of the ranking process, is it going to be based on a point system, on a statewide ranking worksheet, reviewed and developed by whom, timeline for ranking in the application process, will there be a cut-off for ranking in which all applicants will be evaluated for funding, an outlay of the process and procedures. Also, what documentation will be required and is this documentation supplied with the application or gathered later? Would potential easement holders be able to weigh in on the ranking or excluded from providing priorities?

1) The significance of the agricultural, ecological, and social values of the working land subject to the working land conservation

Bari "significance" is not defined.

In Guidance: Integration of agriculture and conservation that increase protection of both

Covenant/Easement Rules

0080 Evaluation Criteria

2) The extent to which the working land conservation covenant or easement would protect, maintain or enhance farming or ranching on working land

- ▶ Level of risk of conversion
- ▶ Fragmentation (~~nonfarm use~~)
- ▶ Ability for land to remain in production (**all or enough?**)
- ▶ Viability of the land for ag
- ▶ Viability of the operation (including succession)

3) The extent to which the covenant or easement would protect, maintain or enhance significant fish or wildlife habitat, improve water quality or support other natural resource values

Same as CMP

Covenant/Easement Rules

0080 Evaluation Criteria

4) The extent to which the covenant or easement would protect significant agricultural outcomes, benefits or other investment gains to the region

- ▶ Ag land base
- ▶ Regional importance of the operation

Make consistent with CMP???

5) The capacity and competence of the organization that filed the application to create, hold, monitor, steward, and enforce a working land conservation covenant or working land conservation easement

- ▶ Accreditation: Tom Salzer I do not like tying a rule to outside standards or an organization that may change over time
- ▶ land preservation in the organization's mission, vision or other organizational documents (or in commitment section like CMP?)
- ▶ Strength/governance. Guidance: ag owner/operators on Board

Covenant/Easement Rules

0080 Evaluation Criteria

6) The extent to which the benefit to the state from the investment may be maximized

- ▶ Preference for covenant/easement with CMP?
- ▶ Cumulative impacts of investments in community = **critterion 4?**
- ▶ Effects of land use planning **what in rule/guidance?**

7) The extent and nature of the impacts of the covenant or easement on owners or operators of neighboring lands

- ▶ Positive/negative
- ▶ Plan for communication

Covenant/Easement Rules

0100 Board Approval and Delegation of Authority

Conditionally approved grant funds shall be encumbered for disbursement only after all conditions are fulfilled. The encumbered funds may be made available for other uses by OWEB if all conditions required by the Board are not satisfied within 18 months of the conditional Board approval.

Commission: This is current OWEB language - may want more flexibility for OAHP

0110 Public Involvement

Requirement under another statute.

Rules contain OWEB's process

0120 Director Funding Approval and Disbursement

Commission: if you approve more flexibility under XXX-XXX-0080, you may want to change wording here to say:

The Director may approve distribution of grant funds. Funds may be distributed throughout the time between approval by the Board and the property closing as the following conditions are met:

Covenant/Easement Rules

0140 Compliance and Enforcement

Also for CMP?

Bari Williams:

Monitoring and enforcement process overview at the beginning of this section.

Include requirements to follow the easement and covenant terms

General timelines to give applicants expectations, that can be extended due to approved circumstances. For example, most violations should be addressed within 30 days. If the applicant has not commenced corrective action within 180 days then the Director may initiate action.

Define “significant” and “full satisfaction”

Notify OAHC of violations and do corrective action plans if the violations are not “significant”?

Tom Salzer:

Annual monitoring report or only notify OAHC for enforcement? Rules and conditions in place at the time funding for the working land conservation covenant or easement is formally approved shall govern throughout the term of the easement or covenant unless changes are mutually agreeable to both parties.

Covenant/Easement Rules

0160 Payment - Cov/Ease

OPTION 1:

- ▶ If a covenant is funded through the Oregon Agricultural Heritage Program and a later application is submitted for the same property for a conservation easement:
- ▶ If the term of the covenant has not expired, the fair market value of the easement will be reduced by a proportion equivalent to the time remaining on the conservation easement.
- ▶ If the term of the covenant has expired, no reduction of fair market value will be taken for the conservation easement.

OPTION 2:

- ▶ If a covenant is funded through the Oregon Agricultural Heritage Program, and a later application is submitted for the same property for a conservation easement, once the fair market value is calculated, the payment for the easement will be reduced by an amount equivalent to the value paid for the covenant.

Administrative Rules

- ▶ **Dean Moberg:** "Can you add a brief paragraph that describes why Oregon ag is so important and ho there is a need for a new process to ensure ag remains vibrant, productive, profitable and conservative of resources?"

SUCCESSION

- Technical changes completed
- Cost effectiveness in criteria

Conservation Management Plans

Technical fixes were made and comments captured for guidance

Purpose (698-xxx-0010)

- **Add number 4:** Must maintain or enhance agricultural values of the farm or ranch.
- Protect, maintain or enhance farming and ranching...

Eligible Activities (698-xxx-0050)

- Discuss existing wording (per Derek)
- **Add:** The commission may receive funds as described in ORS XXXXXX and recommend grants for funding. The commission may receive funds that are restricted for a specific purpose, as long as the purpose of the funding is compatible with the purposes of the program as described in 698xxx0010.

Covenants & Easements

Do we add section: Transaction Requirements

- Easement from OAHP takes precedent over other easement documents
 - In the event of conflict, the easement is the governing document.
- If a separate management plan is part of a proposal for a covenant or easement, the proposed management plan must be agreed to by landowner, applicant, and commission before closing.

Use of Grant Funds (698-xxx-0060)

- Are we ok? There is a question mark.

Overall question

- Agricultural, **ecological** and related social values

UGB Follow Up

Covenants & Easements

Evaluation Criteria (698-xxx-0080)

- (2) “regionally significant”
- (3) **New:** Extent to which future management, as evidenced by a management plan, easement or covenant terms, or inherent site condition is likely to sustain existing ecological values.
- **New:** The degree to which applicant has demonstrated significant potential risk of conversion or fragmentation.

Evaluation Criteria

The extent to which the easement or covenant would **protect, maintain or enhance significant fish or wildlife habitat, improve water quality or support other natural resource values**

- The extent to which the covenant or easement improves water quality;
- The extent to which the covenant or easement improves seasonally appropriate flows **or water retention when appropriate**;

CHANGE TO:

- The extent to which the covenant or easement protect, maintain, or improves water quality and/or quantity.
- Move retention language to guidance

Procedural

“Fragmentation” is the division of a working farm or ranch ~~into smaller parcels~~ (~~unrelated~~ ~~ownerships~~), or the isolation of a farm or ranch from other agricultural operations and/or from the agricultural infrastructure necessary to bring farm products to their appropriate markets.

Putting it Together

- What brought you to the table and kept you at the table?
- What do your members want from a successful program?
- What were your deal-breakers?

Putting It Together

Can we say YES? Did we meet the grand bargain?

The rules create a sound/definitive pathway for tools that warrant public funding and will....

- ...keep Oregon farms and ranches as farms and ranches without discriminating among any type of agriculture or geography.
- ...integrate protecting agriculture and natural resource values.
- ...prevent fragmentation or conversion from agriculture use.

Is there anything you personally gave up that is giving you heartburn that you want to discuss?

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