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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 698
OREGON WATERSHED ENHANCEMENT BOARD
OREGON AGRICULTURAL HERITAGE PROGRAM

FILED

06/28/2018 11:22 AM

ARCHIVES DIVISION

SECRETARY OF STATE

FILING CAPTION: Establishes administrative rules for the Oregon Agricultural Heritage Program.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/31/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:

Eric Hartstein

Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 07/16/2018

DATE: 07/17/2018

TIME: 1:00 PM - 4:00 PM

TIME: 11:30 AM - 2:30 PM

OFFICER: Nellie McAdams

OFFICER: Nellie McAdams

ADDRESS: Department of State Lands

ADDRESS: Harney County Community

, Land Board Room

Center

775 Summer St. NE

484 N. Broadway Ave.,

Salem, OR 97301

Burns, OR 97720

NEED FOR THE RULE(S):

These rules have been developed to implement House Bill (HB) 3249 (2017). HB 3249 established the Oregon Agricultural Heritage Fund and Oregon Agricultural Heritage Commission, and requires the Oregon Watershed Enhancement Board to develop programs to provide grants from the fund for the purpose of Conservation Management Plans, Working Land Conservation Covenants and Easements, Working Land Technical Assistance, and Succession Planning.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 541.977- ORS 541.989 located at: https://www.oregonlegislature.gov/bills_laws

FISCAL AND ECONOMIC IMPACT:

The proposed rules will be used to administer grant programs related to working land conservation and succession planning. Grants will be provided to eligible entities engaged in voluntary conservation and succession planning efforts with working land owners. As this is a voluntary grant program seeking to maintain working lands in rural communities, it is expected to result in only positive fiscal impacts.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1) It is not expected that there will be a cost of compliance to state agencies, units of local government, and members of the public as the proposed rules define the process for a voluntary grant program.

2) a) As this is a voluntary grant program, only small businesses that are eligible and interested in participating in the program will be affected by the rules. b) The reporting, recordkeeping, and administrative activities required by the rules are principally borne by program grantees that are voluntarily entering the program, and are not considered small businesses as defined by ORS 183.310(10). Individual landowner agricultural owners or operators are not eligible applicants, but they may be required to contribute to grant reporting and cooperate in monitoring. c) Similar to section b, the cost of professional services, equipment, supplies, labor, and increased administration to comply with the rules will be borne principally by program grantees that are not defined as small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The proposed rules were developed with the assistance of a Rules Advisory Committee, which was comprised of the commissioners of the Oregon Agricultural Heritage Commission. Several of the commissioners are proprietors of small businesses and understand if any of the proposed rules would negatively impact small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

698-005-0010, 698-005-0020, 698-005-0030, 698-005-0040, 698-005-0050, 698-005-0060, 698-005-0070, 698-005-0080, 698-005-0090, 698-005-0100, 698-010-0010, 698-010-0020, 698-010-0030, 698-010-0040, 698-010-0050, 698-010-0060, 698-010-0070, 698-010-0080, 698-010-0090, 698-010-0100, 698-010-0110, 698-010-0120, 698-010-0130, 698-010-0140, 698-010-0150, 698-015-0010, 698-015-0020, 698-015-0030, 698-015-0040, 698-015-0050, 698-015-0060, 698-015-0070, 698-015-0080, 698-015-0090, 698-015-0100, 698-015-0110, 698-015-0120, 698-015-0130, 698-015-0140, 698-015-0150, 698-015-0160, 698-015-0170, 698-015-0180, 698-020-0010, 698-020-0020, 698-020-0030, 698-020-0040, 698-020-0050, 698-020-0060, 698-020-0070, 698-020-0080, 698-020-0090, 698-025-0010, 698-025-0020, 698-025-0030, 698-025-0040, 698-025-0050, 698-025-0060, 698-025-0070, 698-025-0080, 698-025-0090, 698-025-0100, 698-025-0110, 698-025-0120

ADOPT: 698-005-0010

RULE SUMMARY: The purposes of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-005-0010

Purpose

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

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

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

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Definitions pertaining to the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-005-0020

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" means the division of a working farm or ranch, 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" means 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) "Grantee" means an organization or individual that is awarded a grant under one or more of OAHP's grant programs.¶

(8) "OWEB" means the Oregon Watershed Enhancement Board state agency.¶

(9) "Technical committee" means a team of individuals who have expertise relevant to the ranking of OAHP grants, or other issues before the Commission.¶

(10) "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.¶

(11) "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.¶

(12) "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.

Statutory/Other Authority: ORS 541.979, ORS 541.988, ORS 541.984

Statutes/Other Implemented: ORS 541.977-541.989

698-005-0030

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 description 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 landowners was not possible at the time of application, the applicant must 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-005-0040

RULE SUMMARY: The application review process for Oregon Agricultural Heritage Program grants.

CHANGES TO RULE:

698-005-0040

Application Processsing

(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 grant project.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Conditions for grant agreements formed under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-005-0050

Grant Agreement Conditions

- (1) The Board will enter into new grant 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 by OWEB.¶
- (7) The grantee will obtain all necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy or each permit or license 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.¶
- (9) Rules and conditions in place at the time the grant is awarded shall govern throughout the term of the project unless changes are mutually agreeable to both parties.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-005-0060

RULE SUMMARY: Authorization to accept contributions to the Oregon Agricultural Heritage Fund and conditions on those contributions.

CHANGES TO RULE:

698-005-0060

Use of Restricted Funding

The Board may accept contributions to the Oregon Agricultural Heritage Fund from any public or private source and may agree to any conditions for the expenditure of those contributions that are consistent with the purposes of the fund.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-005-0070

RULE SUMMARY: Rules governing the distribution of funds to grantees from the Oregon Agricultural Heritage Fund.

CHANGES TO RULE:

698-005-0070

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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-005-0080

RULE SUMMARY: Rules governing the consequences of an applicant's failure to meet conditions imposed by the OWEB Board.

CHANGES TO RULE:

698-005-0080

Funding Decision Reconsideration by the 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-005-0090

RULE SUMMARY: Rules governing the Oregon Agricultural Heritage Commission's creation of discretionary technical committees.

CHANGES TO RULE:

698-005-0090

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).

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-005-0100

RULE SUMMARY: The OWEB Director's authority to waive the requirements of Division 005.

CHANGES TO RULE:

698-005-0100

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 005 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Purpose of the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0010

Purpose

The Conservation Management Plan Grant Program funds the development, implementation and/or monitoring of conservation management plans (plans) entered into by agricultural owners or operators and organization to manage working land in a manner that supports one or more natural resource values. Conservation management plans funded under this program:

- (1) Must contribute to the public benefits in OAR 698-005-0010;
- (2) Must be for the purpose of developing and/or 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;
- (3) Must protect, maintain, or enhance the agricultural values of the working land and/or operation; and
- (4) 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0020

RULE SUMMARY: Definitions used in the conservation management plan grant rules of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0020

Definition

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

- (1) Material to the plan as defined in Section 0120(5); and
- (2) Agreed to by both the agricultural owner or operator implementing the plan and the conservation management plan holder.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0030

RULE SUMMARY: Eligibility criteria for applicants to the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0030

Eligibility

(1) Eligible applicants 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 are not eligible to apply for a Conservation Management Plan Grant.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0040

RULE SUMMARY: Application requirements for the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0040

Application

Conservation Management Plan Grant applications shall:

- (1) Be consistent with OAR 698-005; and
- (2) Include the duration and any terminating events for the plan.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0050

RULE SUMMARY: Match contribution requirements for the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0050

Match Contributions

(1) All applicants shall demonstrate that some portion of the proposal is being sought as match.¶

(2) The following funds and activities qualify as match:¶

(a) In-kind contributions to activities listed under OAR 698-010-0060;¶

(b) Funding commitments made by others as a result of grant applicant efforts; and¶

(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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0060

RULE SUMMARY: Eligible activities for the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0060

Eligible Activities

Funding may be utilized to develop, implement, and/or monitor conservation management plans.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0070

RULE SUMMARY: Rules governing the duration of annual payments from the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0070

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 at least 20 years and no more than 50 years.¶

(2) If a plan is associated with a working land conservation covenant that would also be funded by OAHP, the term of the plan must be the same as the term of the covenant.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The components that must be included in a conservation management plan funded by the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0080

Conservation Management Plan Components

At a minimum, conservation management plans must include:

- (1) A summary describing how the conservation management plan meets OAHP's purpose;
- (2) The contact and location information for the agricultural owner or operator and plan holder;
- (3) Relevant background and context of the working land and operation;
- (4) Inventory, including site characteristics and current management;
- (5) Short- and long-term social, economic, and conservation goals of the agricultural owner or operator;
- (6) Resource analysis and identification of resource and management concerns;
- (7) Identification of potential plan activities and a justification for the activities that were selected for implementation;
- (8) The implementation plan, including a budget;
- (9) If applicable, a maintenance plan for infrastructure associated with the plan that may affect neighboring lands if not maintained over time;
- (10) The expected agricultural, natural resource, and related social outcomes of the plan once implemented;
- (11) How the conservation management plan will be evaluated and managed;
- (12) A conflict resolution protocol for the agricultural owner or operator and the grantee if the grant program would fund the implementation of the plan; and
- (13) The term of the plan.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Evaluation criteria for conservation management plans funded by the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0090

Evaluation Criteria

Conservation Management Plan Grant applications will be evaluated on:

- (1) The significance of the agricultural, natural resource, and related social values of the working land subject to the conservation management plan(s).¶
- (2) 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(s) would:
 - (a) Maintain or improve the economic viability of the operation; and¶
 - (b) Reduce the potential for future fragmentation of the property and surrounding agricultural lands or conversion of the property that would preclude future agricultural uses on the working land subject to the plan(s).¶
- (3) 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 habitats and species identified as Oregon Conservation Strategy priorities, Oregon's Agricultural Water Quality Management Program priorities, and/or other natural resource values applicable to the land, including soil, water, plants, animals, energy, and human needs considerations;¶
 - (b) Supporting implementation of the Oregon Conservation Strategy, Oregon's Agricultural Water Quality Management Program, and/or other 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) Protecting, maintaining, or improving water quality and/or quantity; and¶
 - (e) Sustaining ecological values, as evidenced by the conservation management plan, or inherent site condition.¶
- (4) The extent to which implementation of the plan(s) would protect significant agricultural outcomes, benefits, or other investment gains, including the regional significance of the agricultural operation and its associated land base.¶
- (5) 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, implement, and/or monitor plan(s); and¶
 - (c) The strength of the organization as measured by effective governance.¶
- (6) The extent to which the benefit to the state may be maximized, based on:
 - (a) The ability to leverage grant moneys from other funding sources;¶
 - (b) The duration and extent of the conservation management plan, with a preference for longer term agreements if implementation funding is awarded; and¶
 - (c) The potential for setting an example that will encourage additional working land projects.¶
- (7) The impacts of plan implementation on owners or operators of neighboring lands, including:
 - (a) A plan for communicating with neighboring landowners once the conservation management plan(s) is/are ready to be implemented about how to mitigate any impacts, if necessary; and¶
 - (b) A maintenance plan or plans for infrastructure that may impact neighboring lands if not maintained over time.¶
- (8) The level of threat of fragmentation or conversion from agricultural uses of the working land.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The process for reviewing grant applications and distributing funds under the conservation management plan grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0100

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 698-010-0080.¶

(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.¶

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

(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 698-005-0040(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.¶

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

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Conditions to be included in grant agreements for conservation management plans funded by the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0110

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. ¶

(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 OAHP funds must be returned to the Commission with the final report. ¶

(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. ¶

(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. ¶

(5) All changes to the conservation management plan must be reflected in writing and provided to the Oregon Agricultural Heritage Commission.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The process for mutual modification of conservation management plans with implementation funding through the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0120

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 698-010-0090.¶

(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 immediately if any of the following changes occur that will impact either implementation of the conservation management plan or its expected outcomes:¶

(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 site conditions significantly affect the expected outcomes of conservation management plan implementation.¶

(7) Modifications to the plan may include:¶

(a) The addition of new conservation practices, measures or benefits; or¶

(b) Changes to practices, measures, or benefits in response to:¶

(A) Changes in science;¶

(B) Changes in management or ownership of the property;¶

(C) Changes in the grazing/cropping system(s); ¶

(D) A natural disaster; or¶

(E) Other changes outside the agricultural owner's or operator's control.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The monitoring process for conservation management plans funded under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0130

Conservation Management Plan Monitoring

If funding is provided for conservation management plan implementation:¶

(1) Notwithstanding (2), the grantee must conduct at least one site visit to the property 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.¶

(2) The agricultural owner or operator and the grantee may agree to establish specific monitoring protocols and site visit intervals more frequent than once every three years 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.¶

(3) 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.¶

(4) The Commission may also develop monitoring protocols to evaluate the outcomes of conservation management plan implementation on a programmatic level.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Requirements for grant reporting for conservation management plans funded under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-010-0140

Grant Reporting Requirements

(1) For grants that fund conservation management plan implementation:¶

(a) At least once per year, the agricultural owner or operator must meet with the grantee and provide the grantee with a written report on the conservation management plan activities completed that year on a form approved by the Commission. Reports may also include photo points or other methods that appropriately track plan implementation.¶

(b) Annual reporting must identify any mutual modifications to the conservation management plan.¶

(c) Reports must be submitted to the Commission on a date set by the Commission.¶

(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.¶

(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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-010-0150

RULE SUMMARY: Provisions for the waiver and periodic review of conservation management plan grant program rules.

CHANGES TO RULE:

698-010-0150

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 010 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The purpose of the working land conservation covenant and easement grant program under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0010

Purpose

An agricultural owner or operator may enter into a working land conservation covenant (covenant) with or grant a working land conservation easement (easement) to an organization that is a holder, as defined in ORS 271.715, other than a state agency. Covenants and easements funded under this program:~~¶~~

- (1) Must contribute to the public benefits in OAR 698-005-0010;~~¶~~
- (2) Must be for the purpose of providing the opportunity for 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; and~~¶~~
- (3) May provide for carrying out any purposes of a conservation easement, as defined in ORS 271.715.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Definitions for the rules governing the working land conservation covenant and easement grant program under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0020

Definitions

(1) "Management plan" means a description of the planned future management of a property proposed for easement or covenant acquisition that addresses agriculture, habitat and natural resource management practices; stewardship; monitoring; and uses of the property. If applicable, it also addresses any proposed agricultural projects, habitat restoration projects, public access, or educational or research projects on the property.¶

(2) "Profit" means the positive difference between the original purchase price of the covenant or easement interest acquired with OAHP grant funds and a subsequent purchase price for the same property interest, minus the landowner's property improvement costs that, from an accounting or tax perspective, are capitalized and not expensed.¶

(3) "Stewardship endowment" means 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0030

RULE SUMMARY: The types of applicants that are eligible to apply for the working land conservation covenant and easement grant program under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0030

Eligible Applicants

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 are not eligible to apply for a Working Land Conservation Covenant and Easement Grant.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0040

RULE SUMMARY: The types of properties that are eligible for funding under the working land conservation covenant and easement grant program under the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0040

Eligible Properties

Eligible properties for Working Land Conservation Covenant and Easement Grants are working lands as defined in ORS 541.977(2).

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The contents of applications to the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0050

Application

(1) In accordance with ORS 541.977(3) and (4), OWEB may consider Working Land Conservation Covenant and Easement Grant applications to 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 OAR 698 Division 001;¶

(b) Be submitted on the most current form and process prescribed by the Commission;¶

(c) State the amount and type of match contribution; and¶

(d) If the application is for a covenant, include the duration of the covenant.¶

(3) If the covenant is identical in duration to a conservation management plan for the working land that is funded by the OAHP Conservation Management Plan Grant Program, the covenant must refer to the conservation management plan in the text of the covenant; and¶

(4) If a pre-existing or new management plan is proposed as part of an application for a covenant or easement under this program, the proposed management plan must be agreed to by the landowner, applicant, and commission before closing.¶

(5) The Commission may consider proposals that are received for covenants or easements that were acquired by the applicant after the previous application deadline.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Rules governing matching contributions for applications to the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0060

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.¶

(2) The following funds and activities qualify as match:¶

(a) In-kind contributions to activities listed under OAR 698-015-0070;¶

(b) Funding commitments made by others as a result of grant applicant efforts;¶

(c) The donated portion of a sale; and¶

(d) Funds deposited in a Stewardship Endowment before the time that OWEB funds are released for acquisition of the covenant or easement.¶

(3) The Working Land Conservation Covenant and Easement Grant Program will provide up to a 50% match for the value of a stewardship endowment, but program funds contributed to a stewardship endowment may not exceed 5% of the total appraised value of the covenant or easement.¶

(4) The OWEB Director retains the discretion to determine whether specific proposed matching costs not specifically identified above can be recognized as qualifying matching costs.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Rules governing how funds may be used for projects funded by the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0070

Use of Grant Funds

Working Land Conservation Covenant and Easement Grant funds may be applied towards costs related to the purchasing, implementing, carrying out, holding or monitoring 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 698-015-0070 (1)(a).[¶]

(2) The interest on loans:[¶]

(3) The staff costs incurred as part of the covenant or easement 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 legal fees incurred:[¶]

(7) The closing fees, including recording and title insurance costs:[¶]

(8) 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[¶]

(9) Funding for a stewardship endowment.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0080

RULE SUMMARY: Permissible terms of length for working land conservation covenants funded by the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0080

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) The agricultural owner or operator has received Working Land Conservation Covenant and Easement Grant funding for the covenant.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Evaluation criteria for grant applications to the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0090

Evaluation Criteria

(1) The significance of the agricultural, natural resource, and related social values of the working land subject to the working land conservation covenant or easement.¶

(2) The extent to which the working land conservation covenant or easement would protect, maintain, or enhance farming or ranching on regionally significant working land, including:¶

(a) Reducing the potential for future fragmentation of the property and surrounding agricultural lands or conversion of the property that would preclude future agricultural uses;¶

(b) Maintaining or enhancing the ability of the land to be in productive agricultural use after the covenant or easement is in place;¶

(c) The potential viability of the property for agriculture; and¶

(d) Improving or maintaining the economic viability of the operation, including future transfer of ownership.¶

(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 habitats and species identified as Oregon Conservation Strategy priorities, Oregon's Agricultural Water Quality Management Program priorities, and/or other natural resource values applicable to the land, including soil, water, plants, animals, energy, and human needs considerations;¶

(b) Supporting implementation of the Oregon Conservation Strategy, Oregon's Agricultural Water Quality Management Program, and/or other 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) Protecting, maintaining, or improving water quality and/or quantity; and¶

(e) Implementing a management plan that is likely to sustain ecological values, as evidenced by a management plan, easement or covenant terms, or inherent site condition.¶

(4) The extent to which the covenant or easement would protect significant agricultural outcomes, benefits or other agricultural or conservation important to the region, including:¶

(a) The parcel's contribution to long-term conservation of the region's agricultural land base; and¶

(b) The regional significance of the agricultural operation and its associated infrastructure.¶

(5) The capacity and competence of the applicant and/or the proposed easement or covenant holder to purchase, implement, carry out, hold, monitor, steward, and enforce a working land conservation covenant or easement, including:¶

(a) Accreditation from the Land Trust Accreditation Commission, or implementation of standards and practices that are similar to an organization that is eligible for accreditation;¶

(b) Inclusion of working 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, ability, 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.¶

(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) The 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 OAHP;¶

- (d) The effects of land use planning on the long-term investment;¶
- (e) The potential for setting an example that will encourage additional working lands projects in the region; and¶
- (f) The existence and implementation of a management plan.¶

(7) The impacts of the covenant or easement and/or the associated management plan on owners or operators of neighboring lands, and the extent to which there is a plan of engagement with neighboring landowners about how to mitigate any impacts resulting from the covenant or easement, if necessary.¶

(8) The level of threat of fragmentation or conversion from agricultural uses on the working land.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The process for reviewing and funding grant applications to the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0100

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 698-015-0090.¶

(3) The ranking system shall provide for the ranking of a working land conservation covenant or easement alone and not as part of an application that includes conservation management plans(s).¶

(4) The Board and Commission shall jointly appoint one or more technical committees as described in 698-001-0040 to evaluate and rank applications for grants for working land conservation covenants and easements.¶

(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 OWEB staff 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.¶

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

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0110

RULE SUMMARY: Process for board approval of grants and delegation of authority to the OWEB director under the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0110

Board Approval and Delegation of Authority

(1) The Commission shall recommend and the Board shall approve grants in accordance with guidance adopted by the Board and made available to the public.¶

(2) The Director is delegated the responsibility of ensuring that funding conditions required by the Board are fully satisfied by the grant applicant.¶

(3) 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0120

RULE SUMMARY: Requirements for public comment on grant applications to the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0120

Public Involvement

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

(1) Written comments received at least 14 days before the Board or Commission meeting at which the Board or Commission 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 or Commission meeting at which the grant application is considered.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0130

RULE SUMMARY: Rules governing OWEB Director approval and distribution of grant funding for the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0130

Director Funding Approval and Distribution of Funds

(1) The Director may approve the distribution of grant funds. Funds may be distributed throughout the time between approval by the Board and the covenant or easement closing as the following conditions are met.¶

(a) A grant agreement is executed by the Director and the grant applicant that includes a signed statement of understanding and agreement to the roles and responsibilities under the working land conservation covenant or easement by the participating agricultural owner or operator.¶

(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 698-015-0110 are approved by the Director.¶

(e) The Director has reconciled conditionally approved funding with actual project costs.¶

(f) The grant applicant has satisfied the match requirements under OAR 698-015-0060.¶

(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 698-015-0140.¶

(2) For grants established under these rules, the Director is authorized to reimburse the grant applicant for allowable costs identified in OAR 698-015-0070 and to recognize matching contributions under OAR 698-015-0060 that were incurred no earlier than 18 months before the applicable grant application deadline.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Rules governing grantee and agricultural owner and operator compliance and enforcement for projects funded by the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0140

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 Grantee, may in his or her discretion initiate any and all legal remedies available to OWEB, including recovery of the OAHP grant funds that were used to purchase the covenant or easement, 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 encumbered by a covenant or easement acquired with OAHP funds, for the purpose of completing easement and covenant inspections and evaluations.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0150

RULE SUMMARY: Grant reporting requirements for projects funded by the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0150

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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0160

RULE SUMMARY: Rules governing the payment for an easement when a covenant has previously been conveyed on the property.

CHANGES TO RULE:

698-015-0160

Payment Relationship Between Covenants and Easements

If a working land conservation covenant is funded through the Oregon Agricultural Heritage Program and a later application is submitted to the Commission for the same property for a working land 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 easement.

(2) If the term of the covenant has expired, no reduction of fair market value will be taken for the subsequent easement.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0170

RULE SUMMARY: Rules governing conveyances of working land conservation covenants or easements previously acquired under the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0170

Subsequent Conveyances

Subsequent conveyances of working land conservation covenants or easements acquired with OAHP grant funds by the easement or covenant holder shall:¶

- (1) Be made subject to prior approval by the Commission;¶
- (2) Strictly comply with the requirements of ORS 541.977 - ORS 541.989 and OAR 698-010 and 698-015; and¶
- (3) Not result in profit to the holder.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-015-0180

RULE SUMMARY: Rules governing the waiver and periodic review of the rules governing the working land conservation covenant and easement grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-015-0180

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 015 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0010

RULE SUMMARY: The purpose of the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0010

Purpose

The Oregon Agricultural Heritage Commission (Commission) may provide grant funding for technical assistance to organizations that enter into or are eligible 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 698-005-0010.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0020

RULE SUMMARY: Definitions for the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0020

Definitions

(1) "Technical assistance" means supporting the development of working land projects or programs as described in ORS 541-981 and OAR 698-010 (conservation management plans) and ORS 541-982 and OAR 698-015 (working land conservation covenants and easements).¶

(2) "Young or beginning farmer or rancher" means someone who has owned or operated an agricultural operation for 10 years or fewer or who is 35 years old or younger.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0030

RULE SUMMARY: Eligibility requirements for applicants to the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0030

Eligibility

(1) Eligible applicants for Technical Assistance Grants are eligible to enter into agreements resulting in a conservation management plan under OAR 698-010-0080 or accept a working land conservation covenant or easement under OAR 698-015-0080.¶

(2) Individual agricultural owners or operators are not eligible to apply for a Technical Assistance Grant.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0040

RULE SUMMARY: Application requirements for applications to the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0040

Application Requirements

Technical Assistance Grant applications shall be consistent with OAR 698-005.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0050

RULE SUMMARY: Activities that may be included in a project proposal to the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0050

Technical Assistance Activities

(1) Technical Assistance Grant funding 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Evaluation criteria for grant applications to the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0060

Evaluation Criteria

Technical Assistance Grants will be evaluated on:

(1) The extent to which the proposal will improve upon the ability of the entity or its partners to enter into conservation management plans, or enter into working land conservation covenants or easements.

(2) The extent to which the outcomes of the technical assistance project would lead to activities that:

(a) Protect, maintain, or enhance farming or ranching on working land;

(b) Protect, maintain, or enhance significant fish or wildlife habitat, water quality, appropriate seasonal water flows, and appropriate water retention or other natural resource values;

(c) Protect significant agricultural outcomes, benefits, or other investment gains;

(d) Maximize the benefit to the state based on the ability to leverage grant; 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, including beginning or young farmers and ranchers.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0070

RULE SUMMARY: The technical review and funding process for applications to the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0070

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 698-020-0070.¶

(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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Grant agreement conditions for projects funded under the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0080

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.¶

(2) The Director may 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 and the proposed activity is within the same geographic area.¶

(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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-020-0090

RULE SUMMARY: Provisions for the waiver and periodic review of the rules governing the technical assistance grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-020-0090

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 020 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0010

RULE SUMMARY: The purpose of the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0010

Purpose

The Oregon Agricultural Heritage Commission may provide funding recommendations to the Oregon Legislative Assembly, or recommendations for grant funding to the Oregon Watershed Enhancement 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 698-005-0010.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0020

RULE SUMMARY: Definitions for the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0020

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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0030

RULE SUMMARY: Permitting the Oregon Agricultural Heritage Commission to establish priorities for the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0030

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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: The types of applicants that are eligible for grants funded by the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0040

Applicant Eligibility

(1) Eligible applicants for Succession Planning Grants are:

(a) Public institutions of higher learning.

(b) Nonprofit entities.

(c) Units of local government.

(d) Tribes, and

(e) Agricultural cooperatives.

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

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0050

RULE SUMMARY: The requirements for applications submitted to the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0050

Application Requirements

Succession Planning Grant applications shall:

(1) Not require match contributions; and

(2) Comply with Oregon Agricultural Heritage Program general grant application requirements in OAR 698-005.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0060

RULE SUMMARY: Activities that are eligible for funding under the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0060

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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Evaluation criteria for grant applications under the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0070

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 698-005-0010;

(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 projects funded through this or other grant programs.

(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; and

(6) The extent to which the project introduces participants to conservation tools as resources for succession planning.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0080

RULE SUMMARY: The technical review and funding process for grants funded under the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0080

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 in OAR 698-025-0070.¶

(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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0090

RULE SUMMARY: Grant agreement conditions for projects funded under the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0090

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.¶

(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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0100

RULE SUMMARY: Funding conditions for grant applications approved under the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0100

Grant Funding Conditions

(1) 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.¶

(2) Final reports are due within 60 days of project completion. Any unexpended OAHP funds must be returned to the Commission with the final report.¶

(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.¶

(4) Once the final report has been approved the final payment shall be promptly processed.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

RULE SUMMARY: Grant reporting requirements for grantees of the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0110

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:¶

(a) The number of people who participated in the program;¶

(b) The geographic, commodity, and other demographic indicators of participation in the program;¶

(c) Documented improved understanding of succession planning by program participants;¶

(d) 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;¶

(e) 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¶

(f) Other documentation of the project's success in contributing to achieve the purpose of this grant program.¶

(3) The Director or the Commission may authorize an independent performance audit of any Succession Planning Grantee. The Director may restrict future grant funds if the Director determines the Grantee is not complying with the rules of the Succession Planning Grant Program.¶

(4) In addition to project reports, the Commission may conduct program evaluations that may include:¶

(a) Changes in USDA Census of Agriculture or similar data that would indicate a change in adoption of succession planning by Oregon agricultural owners or operators;¶

(b) Surveys of agricultural owners or operators on the status of succession plans; and¶

(c) Other trends in working land ownership and use.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989

ADOPT: 698-025-0120

RULE SUMMARY: Provisions for waiver and periodic review of the rules for the succession planning grant program of the Oregon Agricultural Heritage Program.

CHANGES TO RULE:

698-025-0120

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 025 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.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989

Statutes/Other Implemented: ORS 541.977-541.989