



Oregon Agricultural Heritage Program Rulemaking Advisory
Committee (RAC)

RAC Meeting #4 Agenda

Wednesday, September 11, 2024

2 pm – 4 pm

Virtual meeting: [RECORDING](#)

2:00 – 2:10 Welcome and Introductions

2:10 – 2:30 Division 15 Draft Rule Language Discussion Continued

2:30 - 3:40 Division 10 Draft Rule Language Discussion (Division 20 & 25 if time allows)

3:45 – 3:55 Public Comment (Please join at least 30 minutes before comment period as this item may be moved up if the meeting is running ahead of schedule)

3:55 – 4:00 Next Steps/Conclude

Oregon Agricultural Heritage Program - Chapter 698

Division 5

Oregon Agricultural Heritage Program Administration

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 conversion and fragmentation of Oregon's working land; and
- (3) The maintenance or enhancement of fish or 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0020

Definitions

- (1) "Agricultural landowner 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) "Carbon Sequestration" means the process of capturing and storing atmospheric carbon dioxide.
- (4) "Carbon Storage" means the storage of carbon in plants, soils, geological formations, and the ocean.
- (5) "Commission" means the Oregon Agricultural Heritage Commission created under ORS 541.986.
- (6) "Conservation management plan" means specific actions planned for working lands to improve or maintain the agricultural and natural resource values. A conservation management plan is independent of a working lands covenant or easement.
- (7) "Conversion":
 - (a) "Conversion" means:
 - (A) Cessation of accepted farming practices;
 - (B) Construction of dwellings not occupied by farm operators or workers or other structures not related to agriculture;
 - (C) Removal of infrastructure required for accepted farming practices unless necessary to accommodate a change in accepted farming practices; or
 - (D) Cancelling or transferring rights to use water for irrigation in a manner that reduces the long-term viability of agriculture on the working land.
 - (b) As used in this definition, "accepted farming practices" shall have the meaning set forth in ORS 215.203(2)(c)

(8) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.

(9) "Durable adaptation and resilience for ecosystems" means the extent to which a project is expected to help an ecosystem, including human communities, adjust to, respond to, or recover from the effects of a changing climate.

(10) "Farming and ranching" means "farm use" as defined in ORS 215.203(2).

(11) "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.

(12) "Grant agreement" means the legally binding contract between the Board and the grant recipient in which the Board is not substantially involved in the funded program or activity other than involvement associated with monitoring compliance with the grant conditions. 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.

(13) "Grantee" means an organization or individual that is awarded a grant under one or more of OAHP's grant programs.

(14) "Local Communities Disproportionately Impacted by Climate Change" includes communities such as Native American tribes, communities of color, rural communities, coastal communities, communities experiencing lower incomes, and other communities traditionally underrepresented in public processes, including seniors, youth, and persons with disabilities.

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

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

(17) "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 "farm use" as defined in ORS 541.977(2).

(18) "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 or wildlife habitat, water quality or other natural resource values.

(19) "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 enhancements of fish or wildlife habitat, water quality or other natural resource values.

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0030

Application Requirements

(1) Applications must be submitted on the most current format required by OWEB. An explanation must accompany the application if any of the information required on the application cannot be provided.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989
Statutes/Other Implemented: ORS 541.977-541.989
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0040

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) 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
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0045

Climate-Related Evaluation Criteria

In addition to the evaluation criteria for Conservation Management Plans (OAR 698-010-0090), Working Land Conservation Covenants and Easements (OAR 698-015-0090), Working Land Technical Assistance Grants (OAR 698-020-0160), and Succession Planning Grants (OAR 698-025-0060), grant applications shall also be evaluated, whenever possible, on:

(1) How engagement with, and input from, local communities disproportionately impacted by climate change has informed or will inform the project.

(2) How changing climate conditions are incorporated into the project and how the project will contribute to durable adaptation and resilience for ecosystems, including human communities.

(3) How consideration of greenhouse gas emissions or long-term carbon sequestration or storage has informed the project.

Statutory/Other Authority:
Statutes/Other Implemented:
History:

698-005-0050

Grant Agreement Conditions

(1) OWEB 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 for purposes of the Oregon Agricultural Heritage Program.

(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 for purposes of the Oregon Agricultural Heritage Program.
- (6) The grantee will obtain all necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy of each permit or license to the OWEB.
- (7) OWEB may place additional conditions in the grant agreement as necessary to carry out the purpose of the program, including:
- (a) An enforceable agreement by the agricultural landowner or operator for continued access by OWEB and its designees for monitoring the project after completion;
 - (b) An enforceable agreement by the grantee to maintain the project for a period of time commensurate with the project approved by the Board;
 - (c) An enforceable agreement to supply future reports on the project as required; and
 - (d) Such other conditions as OWEB deems appropriate to the particular circumstances of the project.
- (8) 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 all parties.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989
Statutes/Other Implemented: ORS 541.977-541.989
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 purpose of the fund as specified in ORS 541.977 - ORS 541.989.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989
Statutes/Other Implemented: ORS 541.977-541.989
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-005-0070](#)

Distribution of Funds

- (1) The Director may withhold payments to a grantee if there are significant and persistent difficulties with satisfying OWEB requirements.
- (2) Funds will be released upon receipt of a completed request, as prescribed by OWEB, 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 OWEB. 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-005-0080](#)

Technical Committees

In addition to technical committees established by the Commission to rank and evaluate 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).

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-005-0090](#)

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 at the next meeting. The administrative rules for the Oregon Agricultural Heritage Program shall be periodically reviewed by the Commission, Board, and OWEB 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Oregon Agricultural Heritage Program - Chapter 698

Division 10

Conservation Management Plans

698-010-0010

Purpose

The purpose of a conservation management plan as defined in OAR 698-005-0020(4) is to develop and implement conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, water quality or other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural landowner or operator. The plan 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.

The Conservation Management Plan Grant Program funds the development, implementation, and monitoring of conservation management plans (plans) entered into by agricultural landowners or operators and conservation management plan holders to manage working land in a manner that contributes to the purpose of the Oregon Agricultural Heritage Program as defined 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0020

Definitions

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

- (a) Material to the plan as defined in 698-010-0120(5); and
- (b) Agreed to by the agricultural landowner or operator implementing the plan and the conservation management plan holder.

(2) "Project" means the aggregate of activities included in 698-010-0060 that comprise an application.

(3) "Conservation management plan holder" means an entity that is eligible to hold a conservation management plan that is or would be responsible for developing, implementing, monitoring or enforcing the agreement under an OAHP grant agreement.

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0030

Eligible Applicants

(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) Tax exempt organizations under section 501(c)(3) of the Internal Revenue Code.

(2) Individual agricultural landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-010-0040](#)

Eligible Properties

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

[698-010-0050](#)

Match Contributions

- (1) All applicants shall demonstrate that some portion of the application 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; and
 - (b) Funding commitments made by others as a result of grant applicant efforts.
- (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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-010-0060](#)

Use of Funds

- (1) Funding may be utilized to develop, implement, carry out or monitor conservation management plans.
- (2) The application must address how the conservation management plans will address the local Agricultural Water Quality Management Area plan goals.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-010-0070](#)

Term of Payment for Conservation Management Plan Implementation

- (1) If an agricultural landowner 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 the purpose of the Oregon Agricultural Heritage Program as defined in OAR 698-005-0010;
- (2) The contact and location information for the agricultural landowner or operator and conservation management 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 landowner 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, fish or wildlife, water quality or other natural resource outcomes, and related social outcomes of the plan once implemented;
- (11) How the conservation management plan will be monitored and managed;
- (12) Provisions that provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances.
- (13) A conflict resolution protocol for the agricultural landowner or operator and the conservation management plan holder if the grant program would fund the implementation of the plan; and
- (14) The duration or terminating event for the plan.

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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).
 - (a) The potential viability of the property for agriculture, including but not limited to soil types, suitability for producing different types of crops, and water availability;
 - (b) The parcel's contribution to long-term conservation of the region's agricultural land base;
 - (c) The regional significance of the agricultural operation based on location, its associated infrastructure, and other relevant factors including supporting agricultural values important to the region; and
 - (d) Supporting implementation of local, regional, state, federal or tribal priorities and plans that support fish or wildlife habitat, water quality or other natural resource values including the Oregon Conservation Strategy and Oregon's Agricultural Water Quality Management Program.
- (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 conversion or fragmentation of the property and surrounding working land
- (3) The extent to which implementation of the plan would protect, maintain, or enhance significant fish or wildlife habitat, water quality, or other natural resource values including:
- (a) Protecting, maintaining, or improving the quality and connectivity of plant or wildlife habitat on and around the working land; and
 - (b) Utilizing land stewardship practices that maintain or enhance soil health.
- (4) The extent to which implementation of the plan(s) would protect, maintain or enhance significant agricultural outcomes or, benefits from other related or other investment-gains, including,
- (5) The capacity and competence of the prospective conservation management plan holder to enter into and (if implementation funding is awarded) monitor and carry out implementation of a conservation management plan, including:
- (a) The financial capability to manage the plan(s) over time;
 - (b) The demonstrated relevant commitment, expertise, and track record to successfully develop, implement, carry out, and monitor plan(s); and
 - (c) The strength of the conservation management plan holder 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
- (7) The extent and nature of the plan impacts on owners or operators of neighboring lands,
- (8) The potential to which the project will benefit the local area, as evidenced by engagement with and support from the local community and Tribes.
- (9) The level of threat of conversion or fragmentation of the working land.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989
Statutes/Other Implemented: ORS 541.977-541.989
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0100

Technical Review and Funding Process

- (1) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for conservation management plans. To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments.
- (2) Applications shall be evaluated according to criteria described in OAR 698-010-0090.
- (3) OWEB shall convene the technical committee(s) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.
- (4) 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.
- (5) The Commission shall review and consider the technical committee(s) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.

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

(7) The Board awards 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0110

Grant Agreement Conditions

(1) All conservation management plan grant agreements for conservation management plan development 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 program funds must be returned to the Commission.

(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 amendments are submitted and approved by the Director prior to the beginning of any work proposed in the amendment.

(3) 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) All changes to the conservation management plan must be reflected in writing and provided to the Commission.

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 OAR 698-010-0090.

(2) Any change in the conservation management plan must be mutually agreed to by both the agricultural landowner or operator and the conservation management plan holder.

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

(4) The agricultural landowner or operator must contact the conservation management plan holder 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 or cropping system(s) not identified in the plan. For changes in grazing or cropping systems, the landowner must notify the conservation management plan holder 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 landowner's or operator's control.

(5) The conservation management plan holder must contact the agricultural landowner or operator if changes in site conditions significantly affect the expected outcomes of conservation management plan implementation.

(6) 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 management approaches based on new scientific understanding of expected outcomes;
 - (B) Changes in management or ownership of the working land;
 - (C) Changes in the grazing or cropping system;
 - (D) A natural disaster; or
 - (E) Other changes outside the agricultural landowner'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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0130

Conservation Management Plan Monitoring

If funding is provided for conservation management plan implementation:

- (1) Notwithstanding (2), the conservation management plan holder must conduct at least one site visit to the property every three years, to document the implementation of the conservation management plan.
- (2) The agricultural landowner or operator and the conservation management plan holder may agree to establish specific monitoring protocols and site visit intervals more frequent than once every three years to identify trends in fish or wildlife 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 landowner or operator and the conservation management plan holder.
- (3) OWEB or its designees may conduct spot checks to ensure management plan implementation as identified in the plan and associated reporting. The agricultural landowner or operator shall allow site access to OWEB, or their contractors or representatives upon reasonable notification by OWEB.
- (4) The Commission may also provide guidance to OWEB for the development of 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0140

Grant Reporting Requirements

- (1) For grants that include funding for conservation management plan implementation:
 - (a) At least once per year, the conservation management plan holder should meet with the agricultural landowner or operator and provide OWEB with a written report of the conservation management plan activities completed that year on a form approved by OWEB. OWEB may require reports 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 OWEB on a date set by OWEB.

(2) Upon development of a conservation management plan or completion of conservation management plan implementation, the grantee will provide OWEB 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 specified in the grant agreement.

(3) Upon receipt of the final report, OWEB 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
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 Program. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the Commission at the next meeting. The administrative rules for Conservation Management Planning Grants shall be periodically reviewed by the Commission, Board, and OWEB 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
History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[Oregon Agricultural Heritage Program - Chapter 698](#)

Division 15

Working Land Conservation Covenants and Easements

[698-015-0010](#)

Purpose

A working land conservation covenant or easement must be to ensure 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.

Covenants and easements funded under this program:

- (1) Must contribute to the public benefits in OAR 698-005-0010; and
- (2) Must provide for carrying out a purpose 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0020

Definitions

- (2) “Project” means the aggregate of eligible activities included in sections 698-015-0060 and 698-015-0070 that comprise an application.
- (3) “Stewardship” means the management of the conservation easement or covenant after its acquisition, including: monitoring, recordkeeping, processing amendments and landowner correspondence, managing stewardship funds, resolution of violations, enforcement actions, and defense.
- (4) “Stewardship fund” means a fund that is used to cover the holder’s long-term costs for stewardship of the covenant or easement. If the funding source allows investment of stewardship funds, funds may be used for investment management costs.

Statutory/Other Authority: ORS 541.984, ORS 541.988, ORS 541.989
Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 owners of working land 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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0050

Application Requirements

(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.

(2) Working Land Conservation Covenant and Easement Grant applications shall:

- (a) Be consistent with OAR 698- 005;
- (b) Be submitted on the most current format that conforms with the process prescribed by OWEB.
- (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) The application must address how the easement or covenant will address the local Agricultural Water Quality Management Area plan goals.

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

(5) Applications requesting grant funds that would apply to an OAHP conservation covenant or easement Project with an open OAHP conservation covenant or easement grant will not be considered.

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0060](#)

Matching Contributions

(1) All applicants shall demonstrate that at least 25% match is being sought, based on the total OAHP grant request for the covenant or easement project.

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

- (a) In-kind contributions to activities listed under OAR 698-015-0070;
- (b) Funding commitments toward the Project made by others as a result of grant applicant efforts;
- (c) A donated portion of the sale of the conservation easement or covenant; and
- (d) Funds deposited in a Stewardship Fund before the time that OWEB funds are released for acquisition of the covenant or easement.

(3) The OWEB Director retains the discretion to determine whether specific proposed match contributions not specifically identified above can be recognized as qualifying match.

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

Statutes/Other Implemented: ORS 541.977-541.989

History: [OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0070](#)

Use of Grant Funds

Working Land Conservation Covenant and Easement Grant funds may be applied towards costs related to purchasing, implementing, holding, monitoring, stewarding, or enforcing 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 and covenants 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.

- (2) The interest on bridge loans needed to secure closure on the easement or covenant prior to when funding will be available for distribution through the program;
- (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 by the grantee related to the proposed transaction;
- (7) The closing fees, including recording and title insurance costs;
- (8) Up to 50% match for stewardship funding necessary for stewardship of the covenant or easement, but program funds contributed to a stewardship fund may not exceed 5% of the total appraised value 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0080

Terms of Covenants and Easements

- (1) A working land conservation easement shall last in perpetuity.
- (2) A working land conservation covenant shall last for a term of no less than twenty and no more than fifty years.
- (3) The covenant term shall be set at 12-month increments only and not partial years.
- (4) The first day of the term of a covenant shall be the date that both of these events have occurred:
 - (a) The covenant holder and the owner of working land conveying the covenant sign the agreement; and
 - (b) The owner of working land has received Working Land Conservation Covenant and Easement Grant funding from this program for the covenant.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0090

Evaluation Criteria

Working Land Covenant and Easement Grant applications will be evaluated on:

- (1) The regional significance of the agricultural, natural resource, and related social values of the working land that will be subject to the working land conservation covenant or easement, including.
 - (a) The potential viability of the property for agriculture, including but not limited to soil types, suitability for producing different types of crops, and water availability;
 - (b) The parcel's contribution to long-term conservation of the region's agricultural land base;

(c) The regional significance of the agricultural operation based on location, its associated infrastructure, and other relevant factors including supporting agricultural values important to the region; and
(d) Supporting implementation of local, regional, state, federal or tribal priorities and plans that support fish or wildlife habitat, water quality or other natural resource values including the Oregon Conservation Strategy and Oregon's Agricultural Water Quality Management Program.

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

(a) Reducing the potential for future conversion or fragmentation of the property and surrounding working land;
(b) Maintaining or enhancing the ability of the land to be in productive agricultural use that ~~can~~ supports a viable agricultural operation.

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

(a) Protecting, maintaining, or improving the quality and connectivity of plant or wildlife habitat on and around the working land; and
(b) Utilizing land stewardship practices that maintain or enhance soil health.

(4) The extent to which the project supports the integrated management, maintenance or enhancement of the agricultural and natural resource values on the working land.

(5) The extent to which the covenant or easement would protect agricultural outcomes or, benefits from other related investments

(6) The capacity and competence of the applicant and the proposed easement or covenant holder to purchase, accept, implement, 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; and
(d) Demonstrated relevant commitment, ability, expertise, and track record to purchase, accept, implement, hold, monitor, steward, and enforce conservation covenants and easements or other relevant projects.

(7) 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 or agricultural investments in the community, including other OAHP funded plans, covenants, or easements;
(d) Consistency with local comprehensive plans and statewide planning goals;

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

(9) The potential to which the project will benefit the local area, as evidenced by engagement with and support from the local community and Tribes

(10) The level of threat of conversion or fragmentation of the working land.

(11) The soundness of the legal and financial terms of the proposed real estate transaction.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0100

Technical Review and Funding Process

- (1) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for working land conservation covenants and easements. To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments.
- (2) Applications shall be evaluated according to criteria described in OAR 698-015-0090.
- (3) OWEB shall convene the technical committee(s) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.
- (4) The Commission shall review and consider the technical committee(s) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.
- (5) The Commission shall make funding recommendations to the Board based on the availability of funding from the Oregon Agricultural Heritage Fund.
- (6) The Board awards 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0110

Board Approval and Delegation of Authority

- (1) The Commission shall recommend and the Board shall approve grants in accordance with this OAR Chapter 698, Division 15.
- (2) The Director is delegated the responsibility of ensuring that funding conditions required by the Board are fully satisfied by the grantee.
- (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 for purposes of the Oregon Agricultural Heritage Program if all conditions required by the Board are not satisfied within 24 months of the conditional Board approval, unless recommended by the Commission and approved by the OWEB Board.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 and tribes, will be provided with written notice of the Board's or Commission's intent to consider:

- (1) Written comments received prior to 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 when the following conditions are met:
 - (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 required title restrictions are approved by the Director;
 - (e) The Director has reconciled conditionally approved funding with actual project costs;
 - (f) The grantee has satisfied the match requirements under OAR 698-015-0060;
 - (g) The Board is notified in writing if the Director intends to hold or recover the grant funds, pending Board consideration under OAR 698-015-0140(1).
- (2) For grants established under these rules, the Director is authorized to reimburse the grantee for allowable costs identified in OAR 698-015-0070 and to recognize match contributions under OAR 698-015-0060 that were incurred no earlier than 18 months before the applicable grant application deadline.
- (3) Notwithstanding OAR 698-015-0130(1)(b)-(f), funds may be distributed prior the full satisfaction of all funding conditions and the transaction closing for due diligence activities specified in OAR 698-015-0070(4) and included in the application budget.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 and its designees will be provided sufficient legal access to property encumbered by a covenant or easement acquired with OAHP funds, given reasonable notice, for the purpose of completing covenant or easement inspections.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0150

Grant Reporting Requirements for Covenants

Upon completion of the term of a working land conservation covenant, the grantee will provide OWEB with a copy of the project completion report in the manner prescribed by OWEB.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 covenant.

(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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0170

Subsequent Conveyances

If a covenant or easement acquired with OAHP funds is subsequently transferred, it must:

(1) Be made subject to prior approval by the Commission and the Board; and

(2) Strictly comply with the requirements of ORS 541.977 – ORS 541.989 and OAR 698-010 and OAR 698-015.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAH 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0180](#)

Waiver and Periodic Review of Rules

The Director may waive the requirements of OAR Chapter 698, 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 by the next meeting. The administrative rules for Working Land Conservation Covenant and Easement Grants shall be periodically reviewed by the Commission, Board, and OWEB 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

History:

[OAH 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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Oregon Agricultural Heritage Program - Chapter 698

Division 20

Working Land Technical Assistance Grants

698-020-0010

Purpose

The purpose of technical assistance grants is to provide assistance to organizations that are eligible to enter into agreements resulting in conservation management plans, or that acquire or propose to acquire 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0020

Definitions

- (1) "Technical assistance" means supporting the development of working land projects or programs as described in ORS 541-981 and division 010 (conservation management plans) and ORS 541-982 and division 015 (working land conservation covenants and easements).
- (2) "Young or beginning farmer or rancher" means someone who has been an agricultural landowner or operator for 10 consecutive years or fewer, or an agricultural landowner or operator who is 35 years old or younger.
- (3) "Socially disadvantaged farmer or rancher" means an agricultural landowner or operator who is a member of a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Those groups include African Americans, American Indians or Alaskan natives, Hispanics, and Asians or Pacific Islanders.
- (4) "Veteran farmer or rancher" means a person who served in United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof, and who was discharged or released therefrom under conditions other than dishonorable.
- (5) "Limited Resource Farmer or Rancher" means an applicant with direct or indirect gross farm sales that are not more than the current indexed value in each of the previous 2 years, and who has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years. An entity or joint operation can be a Limited Resource Farmer or Rancher if all individual members independently qualify.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0030

Eligible Applicants

(1) Eligible applicants for Technical Assistance Grants are eligible to enter into agreements resulting in a conservation management plan under division 010 or acquire a working land conservation covenant or easement under division 015.

(2) Individual agricultural landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0060

Evaluation Criteria

(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 acquire 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, appropriate water retention, or other natural resource values;

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

(d) Maximize the benefit to the state based on the ability to leverage grant moneys; 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 young or beginning farmers or ranchers, socially disadvantaged farmers or ranchers, veteran farmers or ranchers, or limited resource farmers or ranchers.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0070

Technical Review and Funding Process

- (1) Applications shall be evaluated according to criteria described in OAR 698-020-0060.
- (2) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for technical assistance. To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments
- (3) OWEB shall convene the technical committee(s) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.
- (4) The Commission shall review and consider the technical committee(s) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.
- (5) The Commission shall make funding recommendations to the Board based on the availability of funding from the Oregon Agricultural Heritage Fund.
- (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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 by the next

meeting. The administrative rules for Technical Assistance Grants shall be periodically reviewed by the Commission, Board, and OWEB 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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Oregon Agricultural Heritage Program - Chapter 698

Division 25

Succession Planning Grants

698-025-0010

Purpose

The purpose of succession planning is to help ensure the continued use of working lands for agricultural purposes when the land changes ownership. 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 agricultural landowners or operators or persons advising them 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-025-0030

Applicant Eligibility

(1) Eligible applicants for Succession Planning Grants are:

- (a) Public institutions of higher learning,
- (b) Nonprofit entities,
- (c) Political subdivisions of the state that are not state agencies,
- (d) Tribes, and
- (e) Agricultural cooperatives.

(2) Individual agricultural landowners or operators and individual persons or business entities not listed above that are 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0040](#)

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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0050](#)

Eligible Activities

The following activities benefitting agricultural landowners 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 landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0060](#)

Evaluation Criteria

- (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 landowners or operators in diverse geographic locations in Oregon, young or beginning farmers or ranchers, socially disadvantaged farmers or ranchers, veteran farmer or ranchers, limited resource farmers or ranchers, 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0070](#)

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) Applications shall be evaluated according to criteria in OAR 698-025-0060.

(3) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for working land conservation covenants and easements. To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments.

(4) OWEB shall convene the technical committee(s) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.

(5) The Commission shall review and consider the technical committee(s) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.

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

(5) The Board approves Succession Planning 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0080](#)

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 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0090](#)

Grant Funding Conditions

- (1) All Succession Planning 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.
- (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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0100](#)

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 landowners 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 agricultural landowners or operators who take the next step toward succession planning, complete a plan, and implement the plan;
 - (e) Documented improved understanding by participants of tools to reduce conversion or prevent fragmentation of working land, 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 Grant 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 landowners or operators;
 - (b) Surveys of agricultural landowners or operators on the status of succession plans; or
 - (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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0110](#)

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 by the next meeting. 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

DRAFT

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Oregon Agricultural Heritage Program - Chapter 698

Division 5

Oregon Agricultural Heritage Program Administration

[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 conversion and fragmentation of Oregon's working land; and
- (3) The maintenance or enhancement of fish or 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-005-0020](#)

Definitions

- (1) "Agricultural landowner 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) ["Carbon Sequestration" means the process of capturing and storing atmospheric carbon dioxide.](#)
- (4) ["Carbon Storage" means the storage of carbon in plants, soils, geological formations, and the ocean.](#)
- (5) "Commission" means the Oregon Agricultural Heritage Commission created under ORS 541.986.
- (6) "Conservation management plan" means specific actions planned for working lands to improve or maintain the agricultural and natural resource values. A conservation management plan is independent of a working lands covenant or easement.

(7) "Conversion":

(a) "Conversion" means:

(A) Cessation of accepted farming practices;

(B) Construction of dwellings not occupied by farm operators or workers or other structures not related to agriculture;

(C) Removal of infrastructure required for accepted farming practices unless necessary to accommodate a change in accepted farming practices; or

(D) Cancelling or transferring rights to use water for irrigation in a manner that reduces the long-term viability of agriculture on the working land.

(b) As used in this definition, "accepted farming practices" shall have the meaning set forth in [ORS 215.203\(2\)\(c\)](#)

Commented [LO1]: RAC Meeting 1 Considered removing reference to land use statute and decided to leave as is for now in this definition.

(8) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.

[\(9\) "Durable adaptation and resilience for ecosystems" means the extent to which a project is expected to help an ecosystem, including human communities, adjust to, respond to, or recover from the effects of a changing climate.](#)

(10) "Farming and ranching" means "farm use" as defined in ORS 215.203(2).

(11) "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.

(12) "Grant agreement" means the legally binding contract between the Board and the grant recipient in which the Board is not substantially involved in the funded program or activity other than involvement associated with monitoring compliance with the grant conditions. 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.

(13) "Grantee" means an organization or individual that is awarded a grant under one or more of OAHP's grant programs.

[\(14\) "Local Communities Disproportionately Impacted by Climate Change" includes communities such as Native American tribes, communities of color, rural communities, coastal communities, communities experiencing lower incomes, and other communities traditionally underrepresented in public processes, including seniors, youth, and persons with disabilities.](#)

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

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

(17) "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 "farm use" as defined in ORS 541.977(2).

(18) "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 or wildlife habitat, water quality or other natural resource values.

(19) "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 enhancements of fish or wildlife habitat, water quality or other natural resource values.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0030

Application Requirements

(1) Applications must be submitted on the most current format required by OWEB. An explanation must accompany the application if any of the information required on the application cannot be provided.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0040

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) 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0045

Climate-Related Evaluation Criteria

In addition to the evaluation criteria for Conservation Management Plans (OAR 698-010-0090), Working Land Conservation Covenants and Easements (OAR 698-015-0090), Working Land Technical Assistance Grants (OAR 698-020-0160), and Succession Planning Grants (OAR 698-025-0060), grant applications shall also be evaluated, whenever possible, on:

(1) How engagement with, and input from, local communities disproportionately impacted by climate change has informed or will inform the project.

(2) How changing climate conditions are incorporated into the project and how the project will contribute to durable adaptation and resilience for ecosystems, including human communities.

(3) How consideration of greenhouse gas emissions or long-term carbon sequestration or storage has informed the project.

Statutory/Other Authority:
Statutes/Other Implemented:
History:

[698-005-0050](#)

Grant Agreement Conditions

(1) OWEB 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 for purposes of the Oregon Agricultural Heritage Program.

(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 for purposes of the Oregon Agricultural Heritage Program.

(6) The grantee will obtain all necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy of each permit or license to the OWEB.

(7) OWEB may place additional conditions in the grant agreement as necessary to carry out the purpose of the program, including:

- (a) An enforceable agreement by the agricultural landowner or operator for continued access by OWEB and its designees for monitoring the project after completion;
- (b) An enforceable agreement by the grantee to maintain the project for a period of time commensurate with the project approved by the Board;
- (c) An enforceable agreement to supply future reports on the project as required; and
- (d) Such other conditions as OWEB deems appropriate to the particular circumstances of the project.

(8) 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 all parties.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 purpose of the fund as specified in ORS 541.977 – ORS 541.989.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0070

Distribution of Funds

(1) The Director may withhold payments to a grantee if there are significant and persistent difficulties with satisfying OWEB requirements.

(2) Funds will be released upon receipt of a completed request, as prescribed by OWEB, 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 OWEB. 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0080

Technical Committees

In addition to technical committees established by the Commission to rank and evaluate 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).

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-005-0090

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 at the next meeting. The administrative rules for the Oregon Agricultural Heritage Program shall be periodically reviewed by the Commission, Board, and OWEB 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Oregon Agricultural Heritage Program - Chapter 698

Division 10

Conservation Management Plans

698-010-0010

Purpose

The purpose of a conservation management plan as defined in OAR 698-005-0020(4) is to develop and implement conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, water quality or other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural landowner or operator. The plan 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.

The Conservation Management Plan Grant Program funds the development, implementation, and monitoring of conservation management plans (plans) entered into by agricultural landowners or operators and conservation management plan holders to manage working land in a manner that contributes to the purpose of the Oregon Agricultural Heritage Program as defined 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0020

Definitions

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

- (a) Material to the plan as defined in 698-010-0120(5); and
- (b) Agreed to by the agricultural landowner or operator implementing the plan and the conservation management plan holder.

(2) "Project" means the aggregate of activities included in 698-010-0060 that comprise an application.

(3) "Conservation management plan holder" means an entity that is eligible to hold a conservation management plan that is or would be responsible for developing, implementing, monitoring or enforcing the agreement under an OAHP grant agreement.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0030

Eligible Applicants

(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) Tax exempt organizations under section 501(c)(3) of the Internal Revenue Code.

Commented [LO2]: Consider inserting definition of CMP holder from Div 5

Commented [LO3]: Consider replacing w/ ORS language "Tax exempt under section 501(c)(3) of the Internal Revenue Code."

(2) Individual agricultural landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0040

Eligible Properties

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

698-010-0050

Match Contributions

(1) All applicants shall demonstrate that some portion of the application 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; and

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

(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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0060

Use of Funds

(1) Funding may be utilized to develop, implement, carry out or monitor conservation management plans.

(2) The application must address how the conservation management plans will address the local Agricultural Water Quality Management Area plan goals.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Commented [D04]: Rework to focus on use of funds

Commented [L05]: Possible area for adjustment (if keeping section)

Commented [L06]: Consider removal

Commented [D07R6]: Where are activities eligible activities captured if we remove this section?

Commented [L08R6]: Change heading to "Use of Funds"?

698-010-0070

Term of Payment for Conservation Management Plan Implementation

(1) If an agricultural landowner 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Commented [LO9]: Consider moving below 698-010-0080

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 the purpose of the Oregon Agricultural Heritage Program as defined in OAR 698-005-0010;

(2) The contact and location information for the agricultural landowner or operator and conservation management 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 landowner 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, fish or wildlife, water quality or other natural resource outcomes, and related social outcomes of the plan once implemented;

(11) How the conservation management plan will be monitored and managed;

Commented [LO10]: Consider word swap to align w/ ORS 541.981(3)(d)

(12) Provisions that provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances.

Commented [LO11]: Consider moving here from 698-010-0120(2)

(13) A conflict resolution protocol for the agricultural landowner or operator and the conservation management plan holder if the grant program would fund the implementation of the plan; and

(14) The duration or terminating event for the plan.

Commented [LO12]: Consider revision to better align w/ statute

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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).

(a) The potential viability of the property for agriculture, including but not limited to soil types, suitability for producing different types of crops, and water availability;

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

(c) The regional significance of the agricultural operation based on location, its associated infrastructure, and other relevant factors including supporting agricultural values important to the region; and

(d) Supporting implementation of local, regional, state, federal or tribal priorities and plans that support fish or wildlife habitat, water quality or other natural resource values including the Oregon Conservation Strategy and, Oregon's Agricultural Water Quality Management Program.

(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 conversion or fragmentation of the property and surrounding working land

(3) The extent to which implementation of the plan would protect, maintain, or enhance significant fish or wildlife habitat, water quality, or other natural resource values including:

Commented [LO13]: Highlighted Text = From Statute

(a) Protecting, maintaining, or improving the quality and connectivity of plant or wildlife habitat on and around the working land; and

(b) Utilizing land stewardship practices that maintain or enhance soil health.

(4) The extent to which implementation of the plan(s) would protect, maintain or enhance significant agricultural outcomes or benefits from other related or other investment gains, including,

(5) The capacity and competence of the prospective conservation management plan holder to enter into and (if implementation funding is awarded) monitor and carry out implementation of a conservation management plan, including:

- (a) The financial capability to manage the plan(s) over time;
- (b) The demonstrated relevant commitment, expertise, and track record to successfully develop, implement, carry out, and monitor plan(s); and
- (c) The strength of the conservation management plan holder 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

(7) The extent and nature of the plan impacts on owners or operators of neighboring lands,

(8) The potential to which the project will benefit the local area, as evidenced by engagement with and support from the local community and Tribes.

(9) The level of threat of conversion or fragmentation of the working land.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0100

Technical Review and Funding Process

(1) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for conservation management plans. To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments

(2) Applications shall be evaluated according to criteria described in OAR 698-010-0090.

(3) OWEB shall convene the technical committee(s) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.

(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.

Commented [LO14]: Is this true? Is there more value in a 50 year plan than a 20 year plan?

Commented [LO15]: Consider revising to better align w/ statute "The extent and nature of the plan impacts on owners or operators of neighboring lands"

Commented [LO16]: If keeping, provide clarity on whether more or less threat is a good thing

(4) The Commission shall review and consider the technical committee(s) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.

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

(6) The Board awards 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

History:

[OAHHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0110

Grant Agreement Conditions

(1) All conservation management plan grant agreements for conservation management plan development 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 program funds must be returned to the Commission.

Commented [LO19]: Consider removal. May Preclude offering development + implementation grants

(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 amendments are submitted and approved by the Director prior to the beginning of any work proposed in the amendment.

(3) 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) All changes to the conservation management plan must be reflected in writing and provided to the Commission.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 OAR 698-010-0090.

(2) Any change in the conservation management plan must be mutually agreed to by both the agricultural landowner or operator and the conservation management plan holder.

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

(4) The agricultural landowner or operator must contact the conservation management plan holder 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 or cropping system(s) not identified in the plan. For changes in grazing or cropping systems, the landowner must notify the conservation management plan holder 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 landowner's or operator's control.

(5) The conservation management plan holder must contact the agricultural landowner or operator if changes in site conditions significantly affect the expected outcomes of conservation management plan implementation.

(6) 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 management approaches based on new scientific understanding of expected outcomes;
 - (B) Changes in management or ownership of the working land;
 - (C) Changes in the grazing or cropping system;
 - (D) A natural disaster; or
 - (E) Other changes outside the agricultural landowner'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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0130

Conservation Management Plan Monitoring

If funding is provided for conservation management plan implementation:

(1) Notwithstanding (2), the conservation management plan holder must conduct at least one site visit to the property every three years, to document the implementation of the conservation management plan.

Commented [LO22]: Does this still feel like the right level?

(2) The agricultural landowner or operator and the conservation management plan holder may agree to establish specific monitoring protocols and site visit intervals more frequent than once every three years to identify trends in fish or wildlife 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 landowner or operator and the conservation management plan holder.

(3) OWEB or its designees may conduct spot checks to ensure management plan implementation as identified in the plan and associated reporting. The agricultural landowner or operator shall allow site access to OWEB, or their contractors or representatives upon reasonable notification by OWEB.

(4) The Commission may also provide guidance to OWEB for the development of 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-010-0140

Grant Reporting Requirements

(1) For grants that include funding for conservation management plan implementation:

(a) At least once per year, the conservation management plan holder should meet with the agricultural landowner or operator and provide OWEB with a written report of the conservation management plan activities completed that year on a form approved by OWEB. OWEB may require reports 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 OWEB on a date set by OWEB.

(2) Upon development of a conservation management plan or completion of conservation management plan implementation, the grantee will provide OWEB 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 specified in the grant agreement.

(3) Upon receipt of the final report, OWEB 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 Program. Any waiver must be in writing, included in the grant file to which the waiver applies, and reported to the Commission at the next meeting. The administrative rules for Conservation Management Planning Grants shall be periodically reviewed by the Commission, Board, and OWEB 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Commented [LO24]: OAHC's role seems to be better captured in #4

Commented [LO25]: consider rewording to put reporting requirements onto holder

Oregon Agricultural Heritage Program - Chapter 698

Division 15

Working Land Conservation Covenants and Easements

698-015-0010

Purpose

A working land conservation covenant or easement must be to ensure 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.

Covenants and easements funded under this program:

- (1) Must contribute to the public benefits in OAR 698-005-0010; and
- (2) Must provide for carrying out a purpose 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0020

Definitions

(2) "Project" means the aggregate of eligible activities included in sections 698-015-0060 and 698-015-0070 that comprise an application.

(3) "Stewardship" means the management of the conservation easement or covenant after its acquisition, including: monitoring, recordkeeping, processing amendments and landowner correspondence, managing stewardship funds, resolution of violations, enforcement actions, and defense.

(4) "Stewardship fund" means a fund that is used to cover the holder's long-term costs for stewardship of the covenant or easement. If the funding source allows investment of stewardship funds, funds may be used for investment management costs.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 owners of working land 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Commented [M026]: Use of stewardship funds will be included in annual easement monitoring report provided to OWEB as required in the GA and required CE language.

[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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0050](#)

Application Requirements

(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.

(2) Working Land Conservation Covenant and Easement Grant applications shall:

(a) Be consistent with OAR 698- 005;

(b) Be submitted on the most current format that conforms with the process prescribed by OWEB.

(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) The application must address how the easement or covenant will address the local Agricultural Water Quality Management Area plan goals. (4) The Commission may consider proposals that are received for covenants or easements that were acquired by the applicant after the previous application deadline.

(5) Applications requesting grant funds that would apply to an OAHP conservation covenant or easement Project with an open OAHP conservation covenant or easement grant will not be considered.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0060](#)

Matching Contributions

(1) All applicants shall demonstrate that at least 25% match is being sought, based on the total OAHP grant request for the covenant or easement project.

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

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

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

(c) A donated portion of the sale of the conservation easement or covenant; and

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

(3) The OWEB Director retains the discretion to determine whether specific proposed match contributions not specifically identified above can be recognized as qualifying match.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0070

Use of Grant Funds

Working Land Conservation Covenant and Easement Grant funds may be applied towards costs related to purchasing, implementing, holding, monitoring, stewarding, or enforcing 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 and covenants 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.

(2) The interest on bridge loans needed to secure closure on the easement or covenant prior to when funding will be available for distribution through the program;

(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 by the grantee related to the proposed transaction;

(7) The closing fees, including recording and title insurance costs;

(8) Up to 50% match for stewardship funding necessary for stewardship of the covenant or easement, but program funds contributed to a stewardship fund may not exceed 5% of the total appraised value 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0080

Terms of Covenants and Easements

(1) A working land conservation easement shall last in perpetuity.

(2) A working land conservation covenant shall last for a term of no less than twenty and no more than fifty years.

(3) The covenant term shall be set at 12-month increments only and not partial years.

- (4) The first day of the term of a covenant shall be the date that both of these events have occurred:
- (a) The covenant holder and the owner of working land conveying the covenant sign the agreement; and
- (b) The owner of working land has received Working Land Conservation Covenant and Easement Grant funding from this program for the covenant.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAH 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0090

Evaluation Criteria

Working Land Covenant and Easement Grant applications will be evaluated on:

- (1) The regional significance of the agricultural, natural resource, and related social values of the working land that will be subject to the working land conservation covenant or easement, including:
- (a) The potential viability of the property for agriculture, including but not limited to soil types, suitability for producing different types of crops, and water availability;
 - (b) The parcel's contribution to long-term conservation of the region's agricultural land base;
 - (c) The regional significance of the agricultural operation based on location, its associated infrastructure, and other relevant factors including supporting agricultural values important to the region; and
- (d) Supporting implementation of local, regional, state, federal or tribal priorities and plans that support fish or wildlife habitat, water quality or other natural resource values including the Oregon Conservation Strategy and Oregon's Agricultural Water Quality Management Program, and/or other local, regional, state, federal or tribal priorities or plans that support fish or wildlife habitat, water quality or other natural resource values;
- (2) The extent to which the working land conservation covenant or easement would protect, maintain, or enhance farming or ranching on the working land, including:
- (a) Reducing the potential for future conversion or fragmentation of the property and surrounding working land;
 - (b) Maintaining or enhancing the ability of the land to be in productive agricultural use that ~~can~~ supports a viable agricultural operation.
- (3) The extent to which the covenant or easement would protect, maintain or enhance significant fish or wildlife habitat, water quality or other natural resource values, including by:
- (a) Protecting, maintaining, or improving the quality and connectivity of plant or wildlife habitat on and around the working land; and
 - (b) Utilizing land stewardship practices that maintain or enhance soil health.
 - (c) ~~Protecting, maintaining, or improving water quality.~~

- (4) ~~Whether the project includes the development and implementation of a management plan that~~ The extent to which the project supports the integrated management, maintenance or enhancement of the agricultural and natural resource values on the working land.
- (5) The extent to which the covenant or easement would protect agricultural outcomes or benefits from other related ~~or other~~ investments gains
- (6) ~~Supporting regional food systems;~~
- (a) ~~Supporting agricultural jobs;~~
 - (b) ~~Maintaining investments in agricultural infrastructure on site or regionally~~
 - (c) ~~The parcel's contribution to long-term conservation of the region's agricultural land base; and~~
 - (d) ~~The regional significance of the agricultural operation based on location, its associated infrastructure, and other relevant factors including supporting agricultural values important to the region.~~
- (7) The capacity and competence of the applicant and the proposed easement or covenant holder to purchase, accept, implement, 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; and
 - (d) Demonstrated relevant commitment, ability, expertise, and track record to purchase, accept, implement, hold, monitor, steward, and enforce conservation covenants and easements or other relevant projects.
- (8) 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 or agricultural investments in the community, including other OAHF funded plans, covenants, or easements;
 - (d) Consistency with local comprehensive plans and statewide planning goals;
- (9) The extent and nature of the impacts of the covenant or easement on owners or operators of neighboring lands.
- (10) ~~The potential extent to which the project will benefit the local area community, as evidenced by including engagement with and support from whether the~~ the local community and Tribes area ~~Native American tribes support the project.~~
- (11) The level of threat of conversion or fragmentation of the working land.
- (12) The soundness of the legal and financial terms of the proposed real estate transaction.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0100

Technical Review and Funding Process

(1) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for working land conservation covenants and easements. To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments.

(2) Applications shall be evaluated according to criteria described in OAR 698-015-0090.

(3) OWEB shall convene the technical committee(s) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation. .

(4) The Commission shall review and consider the technical committee(s) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.

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

(6) The Board awards 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0110

Board Approval and Delegation of Authority

(1) The Commission shall recommend and the Board shall approve grants in accordance with this OAR Chapter 698, Division 15.

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

(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 for purposes of the Oregon Agricultural Heritage Program if all conditions required by the Board are not satisfied within 24 months of the conditional Board approval, unless recommended by the Commission and approved by the OWEB Board.

Commented [MO27]: Adjusted timeline based on RAC commentary, feedback from grantees, and OWEB staff experience.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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 and tribes, will be provided with written notice of the Board's or Commission's intent to consider:

- (1) Written comments received prior to 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 when the following conditions are met:
 - (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 required title restrictions are approved by the Director;
 - (e) The Director has reconciled conditionally approved funding with actual project costs;
 - (f) The grantee has satisfied the match requirements under OAR 698-015-0060;
 - (g) The Board is notified in writing if the Director intends to hold or recover the grant funds, pending Board consideration under OAR 698-015-0140(1).
- (2) For grants established under these rules, the Director is authorized to reimburse the grantee for allowable costs identified in OAR 698-015-0070 and to recognize match contributions under OAR 698-015-0060 that were incurred no earlier than 18 months before the applicable grant application deadline.

[\(3\) Notwithstanding OAR 698-015-0130\(1\)\(b\)-\(f\), funds may be distributed prior the full satisfaction of all funding conditions and the transaction closing for due diligence activities specified in OAR 698-015-0070\(4\) and included in the application budget.](#)

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 and its designees will be provided sufficient legal access to property encumbered by a covenant or easement acquired with OAHP funds, given reasonable notice, for the purpose of completing covenant or easement inspections.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0150](#)

Grant Reporting Requirements for Covenants

Upon completion of the term of a working land conservation covenant, the grantee will provide OWEB with a copy of the project completion report in the manner prescribed by OWEB.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 covenant.

(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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-015-0170](#)

Subsequent Conveyances

If a covenant or easement acquired with OAHP funds is subsequently transferred, it must:

(1) Be made subject to prior approval by the Commission and the Board; and

(2) Strictly comply with the requirements of ORS 541.977 – ORS 541.989 and OAR 698-010 and OAR 698-015.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-015-0180

Waiver and Periodic Review of Rules

The Director may waive the requirements of OAR Chapter 698, 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 by the next meeting. The administrative rules for Working Land Conservation Covenant and Easement Grants shall be periodically reviewed by the Commission, Board, and OWEB 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

Oregon Agricultural Heritage Program - Chapter 698

Division 20

Working Land Technical Assistance Grants

698-020-0010

Purpose

The purpose of technical assistance grants is to provide assistance to organizations that are eligible to enter into agreements resulting in conservation management plans, or that acquire or propose to acquire 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0020

Definitions

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

(2) "Young or beginning farmer or rancher" means someone who has been an agricultural landowner or operator for 10 consecutive years or fewer, or an agricultural landowner or operator who is 35 years old or younger.

(3) "Socially disadvantaged farmer or rancher" means an agricultural landowner or operator who is a member of a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Those groups include African Americans, American Indians or Alaskan natives, Hispanics, and Asians or Pacific Islanders.

(4) "Veteran farmer or rancher" means a person who served in United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof, and who was discharged or released therefrom under conditions other than dishonorable.

(5) "Limited Resource Farmer or Rancher" means an applicant with direct or indirect gross farm sales that are not more than the current indexed value in each of the previous 2 years, and who has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years. An entity or joint operation can be a Limited Resource Farmer or Rancher if all individual members independently qualify.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0030

Eligible Applicants

(1) Eligible applicants for Technical Assistance Grants are eligible to enter into agreements resulting in a conservation management plan under division 010 or acquire a working land conservation covenant or easement under division 015.

(2) Individual agricultural landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

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.

Commented [LO29]: Consider swapping order

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0060

Evaluation Criteria

(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 acquire working land conservation covenants or easements.

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

Commented [LO30]: Make sure any relevant changes to Div 5, 10, 15 evaluation criteria are reflected here

(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, appropriate water retention, or other natural resource values;

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

(d) Maximize the benefit to the state based on the ability to leverage grant moneys; 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 young or beginning farmers or ranchers, socially disadvantaged farmers or ranchers, veteran farmers or ranchers, or limited resource farmers or ranchers.

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

Statutes/Other Implemented: ORS 541.977-541.989

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-020-0070

Technical Review and Funding Process

- (1) Applications shall be evaluated according to criteria described in OAR 698-020-0060.
- (2) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for technical assistance. [To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments](#)
- [\(3\) OWEB shall convene the technical committee\(s\) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.](#)
- [\(4\) The Commission shall review and consider the technical committee\(s\) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.](#)
- (5) The Commission shall make funding recommendations to the Board based on the availability of funding from the Oregon Agricultural Heritage Fund.
- (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
History:
[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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
History:
[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 by the next

meeting. The administrative rules for Technical Assistance Grants shall be periodically reviewed by the Commission, Board, and OWEB 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[Oregon Agricultural Heritage Program - Chapter 698](#)

Division 25

Succession Planning Grants

[698-025-0010](#)

Purpose

The purpose of succession planning is to help ensure the continued use of working lands for agricultural purposes when the land changes ownership. 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 agricultural landowners or operators or persons advising them 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[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 landowners 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0030](#)

Applicant Eligibility

(1) Eligible applicants for Succession Planning Grants are:

- (a) Public institutions of higher learning,
- (b) Nonprofit entities,
- (c) Political subdivisions of the state that are not state agencies,

Commented [LO31]: Revisit

(d) Tribes, and

(e) Agricultural cooperatives.

(2) Individual agricultural landowners or operators and individual persons or business entities not listed above that are 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

History:

[OAH 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0040](#)

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

History:

[OAH 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0050](#)

Eligible Activities

The following activities benefitting agricultural landowners 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 landowners 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

History:

[OAH 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0060](#)

Evaluation Criteria

- (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 landowners or operators in diverse geographic locations in Oregon, young or beginning farmers or ranchers, socially disadvantaged farmers or ranchers, veteran farmer or ranchers, limited resource farmers or ranchers, 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

History:

[OAHF 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0070](#)

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) Applications shall be evaluated according to criteria in OAR 698-025-0060.

(3) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for working land conservation covenants and easements. [To fulfil this responsibility, the Commission shall coordinate with OWEB on technical committee appointments](#)

[\(4\) OWEB shall convene the technical committee\(s\) to evaluate and rank applications for grants. Those rankings will be provided to OWEB. OWEB will provide technical committee rankings to the Commission, along with a funding recommendation.](#)

[\(5\) The Commission shall review and consider the technical committee\(s\) rankings and the recommendations of OWEB staff and consult with the Board concerning grant applications.](#)

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

(5) The Board approves Succession Planning GrantsThe 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

History:

[OAHF 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0080](#)

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 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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-025-0090

Grant Funding Conditions

(1) All Succession Planning 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.

(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

History:

[OAHP 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

698-025-0100

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 landowners 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 agricultural landowners or operators who take the next step toward succession planning, complete a plan, and implement the plan;

(e) Documented improved understanding by participants of tools to reduce conversion or prevent fragmentation of working land, 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 Grant 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 landowners or operators;

(b) Surveys of agricultural landowners or operators on the status of succession plans; or

(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

History:

[OAHF 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

[698-025-0110](#)

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 by the next meeting. 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

History:

[OAHF 1-2019, adopt filed 01/28/2019, effective 02/01/2019](#)

541.977 Definitions for ORS 541.977 to 541.989. As used in ORS 541.977 to 541.989:

(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) “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.

(3) “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.

(4) “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. [2017 c.716 §1]

Note: 541.977 to 541.989 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 541 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

541.978 Oregon Agricultural Heritage Fund. (1) The Oregon Agricultural Heritage Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Agricultural Heritage Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of carrying out ORS 541.977 to 541.989.

(2) The board may accept contributions to the 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. [2017 c.716 §2]

Note: See note under 541.977.

541.979 Expenditures from Oregon Agricultural Heritage Fund. (1) The Oregon Watershed Enhancement Board may expend moneys from the Oregon Agricultural Heritage Fund to:

(a) Carry out the programs described in ORS 541.984;

(b) Pay reimbursements and staff support expenses associated with the activities of the Oregon Agricultural Heritage Commission established under ORS 541.986;

(c) Provide succession planning programs with funding recommended by the commission under ORS 541.989; and

(d) Pay the administrative expenses of the board for carrying out ORS 541.977 to 541.989.

(2) The amount paid from the fund during a biennium for reimbursements and expenses described in subsection (1)(b) and (d) of this section may not exceed 12 percent of the moneys credited to the fund during that biennium. [2017 c.716 §3]

Note: See note under 541.977.

541.981 Conservation management plans for working lands; plan requirements. (1) An agricultural owner or operator may enter into a conservation management plan with an organization for working land to be managed in a manner that supports one or more natural resource values. The conservation management plan may be composed of multiple components addressing different natural resource values as identified in subsection (2) of this section.

(2) A conservation management plan 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. The plan 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.

(3) A conservation management plan must:

(a) Meet the standards established by Oregon Watershed Enhancement Board rules;

(b) State the duration or terminating event for the plan;

(c) Be specific to the land, and account for the needs of, the agricultural owner or operator;

(d) Provide for the parties to review the plan on a regular basis;

(e) Provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances;

(f) Provide for regular monitoring by the organization to ensure that the agricultural owner or operator is adhering to the plan;

(g) Make any receipt by the agricultural owner or operator of annual payments for carrying out the plan contingent on adherence to the plan; and

(h) Limit any annual payments for carrying out the plan to a term of not less than 20 years or more than 50 years.

(4) An organization that enters into, or proposes to enter into, a conservation management plan may apply to the board for a grant to fund the purchasing, implementing, carrying out or monitoring of the plan if the organization is:

- (a) A holder, as defined in ORS 271.715, other than a state agency;
- (b) A watershed council; or
- (c) Tax exempt under section 501(c)(3) of the Internal Revenue Code. [2017 c.716 §4]

Note: See note under 541.977.

541.982 Working land conservation covenants and easements; requirements. (1) An owner of working land 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. A working land conservation covenant must be for a term of years that is established as permissible in Oregon Agricultural Heritage Commission rules.

(2) In addition to the purposes required under subsection (1) of this section, 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. The covenant or easement must provide for carrying out those additional purposes in a manner consistent with ORS 271.715 to 271.795.

(3) A working land conservation covenant or working land conservation easement must:

(a) Provide for regular monitoring by the organization accepting the covenant or easement to ensure that the owner of the working land is adhering to the covenant or easement provisions; and

(b) 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.

(4) An organization that enters into, or proposes to enter into, a working land conservation covenant or accept a working land conservation easement may apply to the Oregon Watershed Enhancement Board for a grant to fund the purchasing, implementing, carrying out or monitoring of the covenant or easement.

(5) An application under subsection (4) of this section may be combined with an application under ORS 541.981 for a grant to fund a conservation management plan associated with the working land conservation covenant or working land conservation easement. [2017 c.716 §5]

Note: See note under 541.977.

541.984 Grant programs; technical committees; rules. (1) The Oregon Watershed Enhancement Board shall establish programs to provide grants from the Oregon Agricultural Heritage Fund for the purposes of:

(a) Assisting owners of working land with succession planning for those lands;

(b) Funding the purchasing, implementing, carrying out or monitoring of conservation management plans, working land conservation covenants or working land conservation easements described in ORS 541.981 and 541.982; and

(c) Providing development funding 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.

(2) The board, after consultation with the Oregon Agricultural Heritage Commission established in ORS 541.986, shall adopt rules that establish a process for submitting and processing applications for grants under ORS 541.981 and 541.982. To the extent practicable, the board shall design the process to:

(a) Allow flexibility and responsiveness to program participant needs; and

(b) Ensure compatibility with federal working land conservation easement programs and other programs for the conservation of working land.

(3) The board and the commission shall jointly appoint one or more technical committees to evaluate and rank conservation management plans, working land conservation covenants and working land conservation easements described in applications filed under ORS 541.981 and 541.982. The system used by the technical committee or committees shall provide for the ranking of conservation management plans to be separate from the ranking of working land conservation covenants and working land conservation easements. The ranking for a plan, covenant or easement shall be based on criteria that include, but need not be limited to:

(a) The extent to which the plan, covenant or easement would protect, maintain or enhance farming or ranching on working land;

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

(c) The extent to which the plan, covenant or easement would protect agricultural outcomes, benefits or other investment gains;

(d) The capacity of the organization that filed the application to enter into a conservation management plan or accept a working land conservation covenant or working land conservation easement, and the competence of the organization;

(e) 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, working land conservation covenant or working land conservation easement; and

(f) The extent and nature of plan, covenant or easement impacts on owners or operators of neighboring lands.

(4) The criteria for ranking conservation management plans, working land conservation covenants or working land conservation easements under subsection (3) of this section may not include a consideration of the type of agricultural operation conducted on the working land.

(5) 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.

(6) The board may issue a grant to fund a conservation management plan, working land conservation covenant or working land conservation easement described in ORS 541.981 and 541.982 only if:

(a) There is a contribution of cash for the plan, covenant or easement, a contribution of in-kind services or another form of investment in the plan, covenant or easement from a funding source other than the Oregon Agricultural Heritage Fund;

(b) The plan, covenant or easement is reviewed by a technical committee that has expertise relevant to the described plan, covenant or easement; and

(c) The commission reviews and recommends funding of the plan, covenant or easement.

(7) Except as provided in this subsection, an organization that receives a grant from the board for a conservation management plan, or an agricultural owner or operator receiving payments of moneys from an organization grant regarding a conservation management plan, may receive cash contributions, other financial assistance, in-kind services or investments, rental or easement payments, tax benefits or other benefits from a federal, state or private entity in return for practices related to the purchasing, implementing, carrying out or monitoring of the conservation management plan. The board or an organization grant may not, however, provide payments that duplicate any federal, state or private payments for the same measures directed to maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values within the plan.

(8) An organization that receives a grant from the board for a working land conservation covenant or working land conservation easement, or an owner of working land that enters into a working land conservation covenant or grants a working land conservation easement, may receive cash contributions, other financial assistance, in-kind services or other forms of investment from any public or private sources for purposes of purchasing, implementing, carrying out or monitoring of the covenant or easement. [2017 c.716 §6; 2019 c.13 §53]

Note: See note under 541.977.

541.986 Oregon Agricultural Heritage Commission. (1) The Oregon Agricultural Heritage Commission is established, consisting of 12 members appointed by the Oregon Watershed Enhancement Board. The board shall appoint one board member to serve on an ex officio basis as a nonvoting member of the commission. The board shall appoint 11 voting members from among persons recommended as provided in subsection (2) of this section.

(2)(a) Four members shall be persons recommended by the State Board of Agriculture who are actively engaged in farming or ranching. The members must represent diverse types of agricultural commodities and be from geographically diverse areas of this state.

(b) One member shall be recommended by the Director of the Oregon State University Extension Service.

(c) Two members shall be persons recommended by the State Fish and Wildlife Commission who have expertise regarding fish and wildlife habitat.

(d) One member shall be a person recommended by the State Board of Agriculture who has expertise in agricultural water quality.

(e) One member shall be a person recommended by the Land Conservation and Development Commission who has expertise in conservation easements and similar land transfers.

(f) One member shall be a person selected by the Oregon Watershed Enhancement Board who is a representative of natural resource value interests.

(g) One member shall be a person selected by the Oregon Watershed Enhancement Board who is a representative of Indian tribal interests.

(3) The term of office of each voting member of the Oregon Agricultural Heritage Commission is four years, but the Oregon Watershed Enhancement Board may remove a member if requested by the authority that recommended the member. Before the term of a member expires, the authority that recommended the member shall make recommendations to the board regarding the appointment of a successor. An authority may recommend the reappointment of a member, but a member may not serve more than two consecutive terms. If there is a vacancy for any cause, the authority that recommended the vacating member shall make recommendations to the board regarding the appointment of a successor to serve for the unexpired term. [2017 c.716 §7]

Note: See note under 541.977.

541.987 Commission organization and membership. (1) The Oregon Agricultural Heritage Commission shall select one of its voting members as chairperson and another voting member as

vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the commission determines.

(2) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every 12 months at a time and place determined by the Oregon Watershed Enhancement Board. The commission also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the commission.

(4) Members of the commission are not entitled to compensation but, at the discretion of the board, may be reimbursed from funds available in the Oregon Agricultural Heritage Fund for actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount provided in ORS 292.495.

(5) The board shall provide staff support for the work of the commission. [2017 c.716 §8]

Note: See note under 541.977.

541.988 Commission rules; advisory or technical committees. (1) In accordance with applicable provisions of ORS chapter 183, the Oregon Agricultural Heritage Commission may adopt rules necessary for the administration of the laws that the commission is charged with administering.

(2) The commission may establish any advisory or technical committee the commission considers necessary to aid and advise the commission in the performance of its functions. The committees may be continuing or temporary committees. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint the members of the committees. The commission chairperson shall be a nonvoting member of each committee.

(3) Members of advisory or technical committees established by the commission are not entitled to compensation but, at the discretion of the commission and with the consent of the Oregon Watershed Enhancement Board, may be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount provided in ORS 292.495. [2017 c.716 §9]

Note: See note under 541.977.

541.989 Commission duties; rules. (1) The Oregon Agricultural Heritage Commission shall:

(a) Assist the Oregon Watershed Enhancement Board with the development of rules for the administration of programs under ORS 541.977 to 541.989;

(b) Adopt rules establishing three or more permissible terms of years, that are not less than 20 or more than 50 years, for working land conservation covenants formed under ORS 541.982;

(c) Recommend policies and priorities for use by the board in evaluating the farm or ranch values, and the fish or wildlife habitat, water quality or other natural resource values, on working land described in a grant application filed under ORS 541.981 or 541.982;

(d) Review and consider the recommendations of technical committees appointed under ORS 541.984;

(e) Consult with the board concerning grant applications;

(f) Provide conservation management plan, working land conservation covenant and working land conservation easement funding recommendations to the board based on the availability of funding from the Oregon Agricultural Heritage Fund; and

(g) Provide funding recommendations to the Legislative Assembly, or recommendations for grant funding to the board, to provide training and support to owners of working land, or persons advising owners of working land, regarding succession planning for the lands.

(2) The commission's recommendations for funding under subsection (1)(g) of this section may include recommendations for funding succession planning programs through the Oregon State University Extension Service only if the university has presented the commission with a program proposal for review. If a commission recommendation for funding succession planning programs through the university extension service is adopted, the university shall provide the commission with an annual report regarding each program. [2017 c.716 §10]

Note: See note under 541.977.



Oregon Agricultural Heritage Program

RAC #4

Submitted Written Public Comments

September 11, 2024

Written Public Comment

Name	Topic
Megan Kemple, Oregon Climate and Agriculture Network	Public Comment on Division 10 and 20 rule language
Karsyn Kendrick, Coalition of Oregon Land Trusts	Public Comment in support of Division 15 changes



September 5, 2024

To: Oregon Agricultural Heritage Commission and OAHP Staff
From: Megan Kempe, Executive Director, Oregon Climate and Agriculture Network (OrCAN)

Re: OAHP Rules: Chapter 698 Division 10 Conservation Management Plans and Division 20 Working Land Technical Assistant Grants

I'm commenting on Division 10 & 20 Rules for OAHP based on our review of [Draft Rules with staff comments](#) shared in meeting materials for the September 11th OAHP RAC meeting. I also plan to attend the meeting on September 11th for the staff presentation and the Commission's discussion.

Current or proposed rule language is in regular text. Our comments are in *italics*.

Division 10 Conservation Management Plans

698-010-0010 Purpose

We appreciate the inclusion of soil in the list of priorities related to natural resource values. Soil health is a key strategy and policy objective to enhance the productivity and resiliency of Oregon's agricultural lands.

This language is potentially of concern:

The Conservation Management Plan Grant Program funds the development, implementation, and monitoring of conservation management plans (plans) entered into by agricultural landowners or operators and conservation management plan holders to manage working land in a manner that contributes to the purpose of the Oregon Agricultural Heritage Program as defined in OAR 698-005-0010.

We recommend adding "land managers" to the list of plan holders. This is an equity issue. Land managers, those who manage but do not own the land, should also be eligible plan holders.

"Operators" may be adequate but we'd appreciate the explicit inclusion of "land managers" in this section and other sections that refer to "land owners".

698-010-0030 Eligible Applicants

(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;

ORS 271.715 states:

(3) "Holder" means:

...(b) A charitable corporation, charitable association, charitable trust, the purposes or powers of which 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; or *We appreciate the inclusion of charitable corporations. Nonprofit organizations, who are charitable corporations, may be needed to apply for CMP grants.*

698-010-0040 Eligible Properties

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

Should this refer to CMP grants as well as Covenant and Easement grants?

698-010-0050 Match Contributions

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

We recommend removing the requirement for match. This is an equity issue. Requiring match makes grant programs less equitably accessible by excluding those from historically marginalized or underserved communities who don't have equal access to resources from applying.

698-010-0060 Use of Funds

.... (2) The application must address how the conservation management plans will address the local Agricultural Water Quality Management Area plan goals.

We recommend removing this requirement. There are many valuable conservation practices and projects that could be implemented in alignment with the purpose of the CMPs that might not address Ag WQMA plan goals.

698-010-0070 Term of Payment for Conservation Management Plan Implementation

(1) If an agricultural landowner 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.

We have serious concerns about the 20-50 year requirement. Most farmers and ranchers will not be interested in making a commitment of 20-50 years for their conservation practices, and it could be difficult to demonstrate the impact of a given practice over a period of this length. Similarly the term of the covenant may be much longer than a farmer or rancher could draft a plan for.

698-010-0080 Conservation Management Plan Components

At a minimum, conservation management plans must include:... (6) Resource analysis and identification of resource and management concerns;

It may be helpful to define "resource and management concerns".

(12) Provisions that provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances.

This language is critical. The ability to modify the plan will be critical to both the success of the plan and a farmer or rancher's willingness to engage with the program.

698-010-0090 Evaluation Criteria

Conservation Management Plan Grant applications will be evaluated on:

(d) Supporting implementation of local, regional, state, federal or tribal priorities and plans that support fish or wildlife habitat, water quality or other natural resource values including the Oregon Conservation Strategy and, Oregon's Agricultural Water Quality Management Program.

We recommend removing this evaluation criteria. There are many valuable conservation practices and projects that could be implemented in alignment with the purpose of the CMPs that might not support implementation of these other local, regional, state, federal or tribal priorities and plans.

..(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:... (b) Reduce the potential for future conversion or fragmentation of the property and surrounding working land.

This seems very difficult to evaluate.

(3) The extent to which implementation of the plan would protect, maintain, or enhance significant fish or wildlife habitat, water quality, or other natural resource values including: ...

(b) Utilizing land stewardship practices that maintain or enhance soil health.

We appreciate staff's recommended inclusion of this reference to soil health! Soil health is a key strategy and policy objective to enhance the productivity and resiliency of Oregon's agricultural lands.

...(6) The extent to which the benefit to the state may be maximized, based on: ... (b) The duration and extent of the conservation management plan, with a preference for longer term agreements if implementation funding is awarded;

We have serious concerns about the 20-50 year requirement. Most farmers and ranchers will not be interested in making a commitment of 20-50 years for their conservation practices, and it could be difficult to demonstrate the impact of a given practice over a period of this length.

698-010-0110 Grant Agreement Conditions

(1) All conservation management plan grant agreements for conservation management plan development 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.

We agree with Staff's recommendation to consider removal, as it may preclude offering development and implementation grants.

698-010-0120 Conservation Management Plan Mutual Modification

If funding is provided for conservation management plan implementation:

(6) Modifications to the plan may include: ... (b) Changes to practices, measures, or benefits in response to: (A) Changes in management approaches based on new scientific understanding of expected outcomes; (B) Changes in management or ownership of the working land; (C) Changes in the grazing or cropping system; (D) A natural disaster; or (E) Other changes outside the agricultural landowner's or operator's control.

We appreciate inclusion of changes in practices, which will certainly change over time.

And we recommended removing the language about what the changes may be in response to.

Over a 20-50 year period there could be any number of reasons that a change in practices could be needed, in addition to those listed above.

Division 20 Working Land Technical Assistant Grants

698-020-0020 Definitions

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

After "development of" add "or implementation of".

698-020-0050 Technical Assistance Activities

(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.

Add "or support implementation of Conservation Management Plans."

Thank you for your consideration of these comments.

A handwritten signature in black ink that reads "Megan Kemple". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Megan Kemple, Executive Director
Oregon Climate and Agriculture Network (OrCAN)



September 9th, 2024

Oregon Agricultural Heritage Commission

Chair Krahmer, Vice Chair Taylor, and Members of the Commission:

On behalf of the Coalition of Oregon Land Trusts (COLT), thank you for the opportunity to provide public comment for the September Oregon Agricultural Heritage Commission (OAHC) meeting. Our statewide coalition and the many partners that work to protect our valuable farm and ranch lands appreciate the time and effort that has gone into this rulemaking process from the OWEB staff and OAH Commission members.

We were glad to see the most recent version of the Division 15 rules altered the definition of stewardship funds and removed the requirement for a management plan within the evaluation criteria. As you have heard through public testimony and the voices of members of the Commission, this requirement can create barriers to participation for land trusts and private landowners.

Since land trusts are the primary partners with landowners in easement transactions, land trusts are tasked with vouching for grantors' conditions on the easement and management plan. So, while management plans are being removed as a requirement, the requirement was a major concern for landowners in the prior grant round. Today, I'd like to share two stories of landowners that withdrew from OAHP funding due to these restrictions. I would urge this Commission to reach out to the Oregon Agricultural Trust or landowner applicants for additional details and consider providing some retroactive flexibility around the management plan to avoid losing additional applicants.



24 MEMBER ORGANIZATIONS: Blue Mountain Land Trust • Center for Natural Lands Management • Columbia Land Trust
Deschutes Land Trust • Ducks Unlimited • Forest Park Conservancy • Friends of the Columbia Gorge Land Trust
Greenbelt Land Trust • Klamath Lake Land Trust • Lower Nehalem Community Trust • McKenzie River Trust
North Coast Land Conservancy • Northwest Rangeland Trust • Oregon Agricultural Trust • Oregon Desert Land Trust
Pacific Forest Trust • Southern Oregon Land Conservancy • The Conservation Fund • The Nature Conservancy in Oregon
The Trust for Public Land • The Wetlands Conservancy • Willowa Land Trust • Western Rivers Conservancy • Wild Rivers Land Trust

8 ASSOCIATE MEMBER ORGANIZATIONS: Black Oregon Land Trust • Cerro Gordo Land Conservancy • Clackamas Soil & Water
Conservation District • East Multnomah Soil & Water Conservation District • Helvetia Community Association
Tualatin Soil & Water Conservation District • View the Future • Yamhill Soil & Water Conservation District

Justin and Jayna Ferrell were approved for OAHP funding and withdrew from the program due to concerns about the management plan and OWEB's role. Having a long working history with OWEB they were concerned that as OWEB priorities change over time, they would be faced with new requirements via the management plan.

The O'Keeffes were at first significantly concerned about the timeliness of OWEB approvals not being guaranteed, worried that, "if a guy had to change his game plans right at the start of the season due to some unforeseen circumstances, he could be really left out to dry if the plan can't get approved in time..." Later, OWEB adapted the template to let the land trust approve the management plan, but with the stipulation that OWEB may later deem it a violation, provoking the response that "it's not easier to get the cow back once it's in the pasture than when it's in the chute." That issue delayed the project and then the O'Keeffes were made a better paying and less restrictive conservation easement funding offer with mitigation funding.

In review of the draft rules, we also noticed that a comment within the rules says that the grant agreement and conservation easement will require land trusts to report on how they have used stewardship dollars each year at monitoring, though that is not standard across other grant programs.

Thank you again for your time and service on this Commission.

Best,

Karsyn Kendrick
Conservation Director
Coalition of Oregon Land Trusts

