

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0020(2), Definitions

Commenter(s)	Comments	Response	Rule Change
Kimberley Priestley, Senior Policy Analyst on behalf of WaterWatch of Oregon	Recommends amending the definition of “Conserved Water Project” to clarify that it means a project that conserves “surface water” pursuant to Oregon’s Conserved Water Act.	Oregon’s Conserved Water Act (ORS 537.455 to 537.500) does not provide a distinction between surface water and groundwater. As noted in the Water Acquisition Rulemaking Update staff report to the OWEB Board at the April 2026 meeting (Agenda Item N): While eligibility for grant applications proposing a groundwater project is not directly provided for in the draft rules, the RAC did spend time discussing issues relating to potential groundwater projects. Given the complex nature of the groundwater topic - including considerations around science, regulatory frameworks, and measurement, among others - OWEB will identify a process for gathering additional information and creating space for learnings on this topic. Ultimately, this work could inform any future guidance to applicants that are developing groundwater projects, or otherwise interested in exploring eligibility and fit with OWEB’s water acquisition grant program. These discussions will occur subsequent to the rulemaking process.	No
Nunzie Gould	Supports the comments made by Water Watch of Oregon dated 5-21-2026, including that OWEB's water acquisition program only fund grants that acquire surface water.	See response to comments above on OAR 695-046-0020(2)	No

Rule: 695-046-0020(6) & (9), Definitions

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends removing the term “Time-limited instream transfer” from subsection (6) and striking the definition altogether in subsection (9).	“Time-limited instream transfer” is the terminology that OWRD uses for instream transfers that are not permanent and are longer than instream leases, which are leases of up to five years. See OAR 690-077-0070 and OAR 690-077-0075.	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0035, Eligibility

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends revising the eligibility criteria to better align with the eligible activities described in ORS 541.956(4).	Consistent with other OWEB grant programs, programmatic activities (i.e., project planning/development, project design, and outreach) that will lead to future instream water transactions are eligible for OWEB funding. To be eligible in the Water Acquisition grant program, the activities may occur only when happening in conjunction with a water acquisition project.	No
April Snell, Executive Director, on behalf of Oregon Water Resources Congress	Notes that proposed rule revision in subsection (2) ensures that irrigation districts receive notice of any proposed water acquisition project inside their district boundaries. The language has been revised for clarity and does not change intent or process.	OWEB staff agree that the proposed rule revision provides clarity and does not change the intent of process of notification of irrigation districts.	No

Rule: 695-046-0185(2), Use of Grant Funds

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that only an efficiency project (utilizing the Oregon Water Resource Department's Allocation of Conserved Water program or similar instream flow water conservation program) that proposes putting 100% of the saved water instream via use of the Conserved Water Act should be considered.	The Water Acquisition grant program requires a 25% match. Projects submitted that are proposing to utilize the ACW program can choose to allocate 100% of the conserved water for instream flow. If a project utilizing ACW has secured additional public funding, which may allow for less than 100% of the water saved to go instream, evaluation criteria have been adjusted to address cost in relation to amount and percentage of water to be protected instream. See OAR 695-046-0196(3)(c).	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0185, Use of Grant Funds

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends clarification that this fund cannot be used for projects that provide mitigation water and/or mitigation credits (e.g. Deschutes Groundwater Mitigation Program).	OWEB's mitigation policy currently prohibits the use of OWEB funds for mitigation purposes, which are defined as, "activities designed specifically to compensate for the adverse ecological effects of a project or development activities, or to resolve violations of law." The policy will be incorporated into guidance for the Water Acquisition grant program to ensure that grant applicants are clear that the program will not provide funding for mitigation purposes as described in the mitigation policy.	No
Deschutes Basin Board of Control	Requests clarity regarding projects using Oregon Water Resources Department's Allocation of Conserved Water program, or "other Department-administered instream flow water conservation program", to confirm that this clearly states inclusion of projects that are utilizing the Oregon Water Resources Department's Memorandum entitled "Water Conservation and Protection Pathway for Irrigation Modernization Projects in the Upper Deschutes Basin," dated December 18, 2024.	The Deschutes Alternative Pathway was discussed by the RAC and specifically considered when the statement, "other Department-administered instream flow conservation programs," was included in rule. The language also allows for other similar programs that may be developed by OWRD prior to the next Water Acquisition Grants rules update.	No
Nunzie Gould	Recommends that the purchase and/or installation of river gage(s) that measure flow and temperature be an eligible use of grant funds.	The Use of Grant Funds section includes the cost of monitoring the implementation of the Water Acquisition Project to certify that the water interest is being used and managed consistently with the intent of grant application, allowing for any conditions listed in the Grant Agreement. This allowable cost would include equipment, among other costs. However, projects that are requesting only funding for flow measurement, absent an on-the-ground transaction that the monitoring equipment would support, would not be considered eligible for a Water Acquisition grant.	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0190, Matching Contributions

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Notes that it is unclear why 25% match requirement has been deleted and recommends that a 25% match requirement be retained for irrigation efficiency projects.	Match requirements for OWEB grants, consistent with ORS 541.958, are addressed in the overarching grant program rules in OAR chapter 695, division 5. OAR 695-005-0030(2) provides that match requirements will be included in the announcement for each grant offering. For the Water Acquisition grant program, the match requirement is currently 25%. Any proposed reduction in the match requirement for this program would be brought to the board for approval as a part of the adoption of the biennial spending plan, in preparation for Water Acquisition grant cycles that biennium.	No

Rule: 695-046-0195, Coordinating and Partnering with Other Funders

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Notes that this rule is proposed for repeal, and that the language has not been fully incorporated into the proposed revisions in OAR 695-046-200(3) and raises a question about whether that may lead to funding partnerships that do not align with Constitutional requirements for OWEB lottery funding.	The OWEB Water Acquisition program will only consider coordinating and partnering with other funders with the intent of projects resulting in legally or contractually protected instream water. Learnings from past efforts to explore proactive pooling of funding from various water acquisition funders found that individual program missions and requirements made this difficult. The intent of the remaining reference is to encourage coordination with other programs without a pooling of funds. By continuing to administer OWEB's water acquisition grant program as a stand-alone, the agency ensures Water Acquisition investments align with Constitutional directives. Evaluation criteria for the Water Acquisition program require clear demonstration of species benefits, habitat benefits, and water quantity and/or water quality benefits.	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0196 Evaluation Criteria(1)(f)

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that criteria related to climate change remain in Rules and that the criteria wording include the phrase “resilience and/or adaptation” to better align with Governor Kotek’s Executive Order 25-26.	The OWEB Board has adopted Climate-Related Evaluation Criteria (OAR 695-005-0045) in the Grant Program Rules that apply across OWEB grant programs, including Water Acquisition grants. Those criteria include a specific criterion that applications shall be evaluated on 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.	No

Rule: 695-046-0196(2), Evaluation Criteria

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Supports new language requiring that Allocation of Conserved Water instream rights be at least of equal priority date as the existing right and encourages OWEB to require that the instream portion be one minute senior to the underlying right.	OWEB appreciates the support for the proposed revision. This comment refers to assigning the same priority date, and same minute, to conserved water going instream. The ACW program no longer allows the instream portion of the conserved water to be 1 minute senior to what is used out of stream. See OAR 690-018-0040(10)	No
Nunzie Gould	Recommends that water conserved instream using the ACW program have a priority date of 1 minute earlier to ensure that wet water placed in our rivers is not subject to regulation if/when a drought is declared.	See comments above on OAR 695-046-0196(2).	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0196(3)(c), Evaluation Criteria

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Support the proposed amendments to evaluation criteria relative to ACW projects but would like it to be limited to projects that propose to put 100% of the saved water instream.	OWEB appreciates the support for the proposed revision. In addition to this revised language, existing and new evaluation criteria ensure that all Water Acquisition grants meet Constitutional requirements and result in instream flow improvements.	No

Rule: 695-046-0196(4)(c), Evaluation Criteria

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Support the proposed amendments.	OWEB appreciates the support for the proposed revision.	No

Rule: 695-046-0196, Evaluation Criteria (General)

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that evaluation criteria be added that gives greater weight to permanent instream transfers over temporary transfers or contractual agreements.	The evaluation criterion for the term of the transaction addresses this topic and will factor into the technical review team recommendations in relation to the other criteria.	No

Rule: 695-046-0200(1)(b), (1)(c)(A), (1)(c)(C) and (2)(b), Application Evaluation Process

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends including statutory cites (e.g. ORS 541.956(4)) in addition to the rule cites.	The Water Acquisition Grants Purpose (OAR 695-046-0010) states that the grant program will be operated in accordance with ORS 541.956, which provides the purposes of the Watershed Conservation Grant Fund. These purposes provide appropriate uses for the fund.	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0200(3), Application Evaluation Process

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that the original stand-alone subsection on Coordinating and Partnering with Other Funders be retained.	See response to comment above on OAR 695-046-0195. In addition, funding partnerships are not part of the evaluation criteria, so a project without one would not be viewed less favorably. Separately, all OWEB grants require match contributions, as described in the response to comments on 695-046-0190 provided above.	No

Rule: 695-046-0201(1)(a), Staff Funding Recommendation Process

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Concern that the proposed language appears to take away OWEB's discretion to evaluate proposed conditions on a grant from a technical review team, and also limits the ability of OWEB to place additional conditions beyond those proposed by the review team on a grant. Encourages a definition of 'Technical Review Team' and language that provides OWEB discretion on conditions.	OWEB's Grant Program Rules, OAR 695-005-0020(4), provide a definition for technical review teams that applies across OWEB's grant programs: "Technical Review Team is a team of designated persons with interdisciplinary expertise drawn from agencies represented on the Board and other entities to evaluate grant applications based on evaluation criteria." OAR 695-005-0050(3) provides discretion for the OWEB Director to establish grant agreement conditions for each grant type. OWEB agrees that the language in OAR 695-046-0201 should be revised to provide that clarification. The second sentence of subsection (1)(a) has been revised to change the "shall" to "may" after the word "recommendation".	Yes

Rule: 695-046-0201, Staff Funding Recommendation Process

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that the rules include remedies for failure to abide by a contract.	OAR 695-046-0220 provides rules for compliance and enforcement for water acquisition grants. In addition, OWEB grant agreements contain provisions for disbursement of grant funds and for the recovery of funds if certain conditions are not met.	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0201, Staff Funding Recommendation Process

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that the rules require a public notice and comment period before OWEB's staff recommendation to the Board.	Prior to OWEB Board meetings, a GovDelivery notice (with a circulation in the thousands) is sent. The notice provides the meeting agenda, items where the Board will be making funding decisions, and process for providing written and/or verbal comments on decision items. There are also opportunities to provide written and verbal comments associated with board committee meetings.	No

Rule: 695-046-0202, Funding Decision

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends that the rules be amended to make clear that the Board's decision must include determination to ensure that the project meets statutory requirements.	The Water Acquisition Grants Purpose (OAR 695-046-0010) states that the grant program will be operated in accordance with ORS 541.956, specifying the purposes of the Watershed Conservation Grant Fund. Grant applications are reviewed by staff for eligibility in relation to statutory requirements and Water Acquisition Program Rules. If determined to be eligible, project applications then are sent to technical review team members for their review in relation to the evaluation criteria. In addition, each grant agreement cites ORS 541.956 and Section 4b of Article XV of the Oregon Constitution as OWEB's authority for funding the activities.	No

Rule: 695-046-0205, Public Involvement

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	Recommends OWEB provide an opportunity for public comment prior to the OWEB staff report and board meeting and include a process for consideration of public comments on the application evaluations prior to OWEB's recommendations to the Board.	See response to comments above on OAR 695-046-0201 regarding the process for providing comments on grant applications being considered for funding by the OWEB Board. Unless otherwise required by statute (i.e., fee-title transactions in land acquisition grants), this process is consistent across OWEB grant programs.	No

Summary of Public Comments: Water Acquisition Grants Rules

Rule: 695-046-0215(3), Directors Funding Approval and Distribution of Funds

Commenter(s)	Comment	Response	Rule Change
Nunzie Gould	Requests clarity regarding how funds may be distributed prior to Water Acquisition Project transaction closing for eligible activities specified in OAR 659-046-0185 and included in the application budget.	The budget referred to here is the final application budget, or budget submitted with edits based on revisions requested by staff following technical review and prior to board decision, such that the application budget referenced in rule aligns with the budget presented to and approved by the OWEB Board.	No

Rule: General Comment

Commenter(s)	Comment	Response	Rule Change
Kimberley Priestley, WaterWatch	WaterWatch is supportive and appreciative of OWEB's Water Acquisition Funding program. Urges OWEB to address comments to ensure that the program fully aligns with its intended purposes and also includes robust public notice and comment for use of these public funds.	OWEB appreciates these thoughtful comments and will consider them as we continually work to improve how the agency's grant programs are administered.	No
April Snell, the Oregon Water Resources Congress	Notes that some issues discussed during RAC process were not included in final rules. Agrees with leaving issues out of rules, specifically related to the Allocation of Conserved Water projects and groundwater projects, but notes that as OWRD updates related rules, that it may be important to revisit the issues in a future rulemaking.	OWEB staff agree that future rulemaking may be necessary to incorporate OWRD updates to rules that have a nexus with the Water Acquisition grant program.	No
April Snell, Oregon Water Resources Congress	Appreciated RAC process and noted meeting materials were provided in advance and made available to public in a transparent manner. Wishes to participate in future rulemaking processes.	OWEB appreciates these thoughtful comments and will consider them as we continually work to improve how the agency's grant programs are administered.	No

Summary of Public Comments: Water Acquisition Grants Rules

Commenter(s)	Comment	Response	Rule Change
Nunzie Gould	Recommends that if a grant is not perfected, that river reach to be benefited still be benefited and not just put the grant to the entirety of a particular basin.	This comment is unclear but may be referring to programmatic funding that can be funded as part of a water acquisition project. The programmatic funding can be related to development of the proposed Water Acquisition Project or future eligible Water Acquisition Projects in the same basin, or a portion thereof.	No
Nunzie Gould	Requests clarity on a section of the rules (OAR 695-046-0225) that was not posted in the public notice regarding the rule changes.	The version of the Water Acquisition Rules posted with the request for public comments only shows those sections of the Program's Rules in which changes (amendments) are proposed. OAR 695-046-0225 has no proposed revisions and will remain a part of the Water Acquisition Grants rule division.	No
Nunzie Gould	Recommends that the Technical Review Team have expertise in surface to ground water evaluation because not all surface water modernizations are devoid of harm to groundwater.	The Water Acquisition application technical review team has expertise in both surface water and groundwater. In addition to technical review as part of the OWEB grantmaking process, several types of eligible water acquisitions are subject to a review process conducted by OWRD staff that includes an injury review. Those include instream leases, instream transfers, and the Allocation of Conserved Water Program or other Department-administered instream flow water conservation programs, such as Deschutes Alternative Pathway projects. Contractual instream water agreements are not subject to an OWRD injury review process.	No