



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 Kemple, 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, reading "Megan Kemple" with a stylized flourish 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

