



# Oregon

Theodore R. Kulongoski, Governor

## Oregon Watershed Enhancement Board

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July 26, 2010

TO Interested Parties

FR Melissa Leoni, Senior Policy Coordinator

RE Chance to Comment on Proposed Revisions to OWEB's Land Acquisition Grant Rules

The Oregon Watershed Enhancement Board (OWEB) is seeking public comment on proposed rules related to the administration of the land acquisition grant program. OWEB is proposing updates to the rule describing the due diligence application requirements, including the donation disclosure [695-045-0120(2)(b) and (c)], fair market value appraisal [695-045-0120(2)(d)], preliminary title report [695-045-0120(2)(e)], and environmental site assessment [695-045-0120(2)(f)] requirements. OWEB is also proposing revisions to the land acquisition rules describing the amount of funds recoverable by OWEB for property misuse or unapproved conveyance [695-045-0140(4)(b) and 695-045-0150(4)].

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

**COMMENT PERIOD:** The public comment period for the proposed rules begins on August 2, 2010 and will close at 5:00 PM on Monday, August 23, 2010. To comment on the proposed rules, please send written comments to Melissa Leoni at the address above, or send comments by email to [melissa.leoni@state.or.us](mailto:melissa.leoni@state.or.us), with the phrase "Land Acquisition Rules" in the subject line.

The proposed rules and public hearing information are available on OWEB's web site at [www.oregon.gov/OWEB/admin\\_rules\\_statutes.shtml](http://www.oregon.gov/OWEB/admin_rules_statutes.shtml). Questions concerning the rules or this process may be directed to Melissa Leoni at 503-986-0179 or [melissa.leoni@state.or.us](mailto:melissa.leoni@state.or.us).

**PUBLIC HEARING:** The Board will hold one public hearing to receive comments regarding the proposed rules. Both oral and written comments will be accepted at the hearing.

**August 23, 2010**

**1:00 p.m. to 2:00 p.m.**

Conference Room 201 (second floor)

State Lands Building

775 Summer Street NE, Salem

**PUBLIC ACCOMMODATION:** The services, programs and activities of the Board are covered by the Americans with Disabilities Act (ADA). The ADA prohibits discrimination against persons with disabilities. To request special considerations to participate in these hearings, please contact the Board's ADA coordinator, Bonnie Ashford (503-986-0181) at least 72 hours prior to the hearing.

**BACKGROUND INFORMATION:** OWEB's administrative rules for land acquisition grants were adopted in 2004, following an extensive rules development and public review process. Since that time, OWEB staff and its stakeholders have identified a limited number of technical requirements that need to be updated or revised in order to improve the administration of the program. This rulemaking effort is limited to the rules described below; it is not a full review of the land acquisition grant rules contained in Division 45.

**I. Donation Disclosure – 695-045-0120(2)(b) and (c)**

OWEB proposes to revise this rule to specify that the seller or lessor must make the required donation disclosure statements. The rule currently requires a written statement as to whether or not the seller or lessor of the land interest is contractually required by the written option, purchase or lease agreement, or other related documents, to donate or transfer funds to the buyer, applicant, or a third party who has assisted with or facilitated the proposed acquisition. The rule also requires written disclosure of the amount of a donation if the amount exceeds 15 percent of the purchase or lease price. The rule does not currently state who must make the written disclosures.

**II. Appraisals and Environmental Site Assessments – 695-045-0120(2)(d) and (f)**

OWEB proposes to revise this rule to give the OWEB Director the ability to request updated appraisal and environmental site assessment materials if, in consultation with OWEB's independent and third-party reviewers, the materials submitted by applicants are determined to be significantly out of date. The current rule requires applicants to submit appraisal and environmental due diligence materials after the Board Acquisition Subcommittee recommends that staff begin a due diligence review of the proposed project. The rule requirements for these documents currently allow OWEB to make acquisition investments using out of date appraisal and environmental due diligence materials.

**III. Title Reports – 695-045-0120(2)(e)**

OWEB proposes to clarify when applicants must submit preliminary title reports. This rule currently contains a provision that results in unnecessary work and expense for grantees and OWEB. Revising the rule will enable staff and grantees to close transactions without unnecessary paperwork while providing staff with the information it needs to evaluate the proposed acquisition.

**IV. Funds Recoverable for Property Misuse or Unapproved Conveyance  
OAR 695-045-0140(4)(b) and 695-045-0150(4)**

OWEB proposes to revise these rules to cap the funds recoverable by OWEB and reduce the financial uncertainty for grantees, while retaining OWEB's ability for full repayment of public funds. OWEB's acquisition rules state that if a property interest acquired with Board funding is used in a manner that is not consistent with the purposes specified in the Constitution, or is transferred without prior Board approval, OWEB funds will be repaid with interest due and payable from the effective date of the grant agreement at a rate specified in statute. Existing rules do not cap the amount of funds that OWEB could recover and grantees have expressed a concern that the repayment amount could far exceed the future value of the property and put the grantee and its other conservation assets at risk.