

DRAFT RULES IMPLEMENTING ORS 196.906 – 196.919 (HB 2437 (2019))
RAC 2437 Rules 20_03.06 v1

603-095-4000

Purpose and Applicability

The purpose of these rules is to simplify the process by which agricultural landowners may maintain their agricultural channels while ensuring that any maintenance is conducted in a manner that protects, maintains or improves ecological functions of the channels and upholds state objectives for fish recovery, protects wetlands, waterways and fish and wildlife habitats. Maintenance of channels used for agricultural drainage is critical to the operational and economic viability of Oregon's farm and ranch lands.

603-095-4005

Definitions

As used in these rules unless the context requires otherwise:

(1) "Bed" means the land within the wet perimeter and any adjacent nonvegetated dry gravel bar or any portion of a waterway that carries water when water is present.

(2) "Channel" means the defined bed and bank that serve to confine where a stream of water runs.

(3) "Converted wetland" means agriculturally managed wetlands that, on or before June 30, 1989, were brought into commercial agricultural production by diking, draining, leveling, filling or any similar hydrologic manipulation and by removal or manipulation of natural vegetation, and that are managed for commercial agricultural purposes. "Converted wetlands" does not include any stream, slough, ditched creek, spring, lake or any other waters of this state that are located within or adjacent to a converted wetland area.

(4) "Drainage ditch" means a manmade water conveyance channel that is for the purpose of draining water away from lands. A ditch that is used to drain water away from lands and also used to convey water to lands for irrigation is considered a drainage ditch. Channels that are manipulated streams are not considered ditches.

(5) "Dry channel" means channel conditions where no flowing or standing water is present in the area to be maintained at the commencement of or during the channel maintenance activity. For the channel of a waterway that is subject to tidal influence, flowing or standing water may not be present during all tidal conditions. A dry channel that receives water from one or more precipitation events that results in pooling or flow of water is no longer dry for the purposes of this definition.

1
2 (6) "Essential Indigenous Anadromous Salmonid Habitat" means the streams designated
3 pursuant to ORS 196.810 that are necessary to prevent the depletion of indigenous
4 anadromous salmonid species during their life history stages of spawning and rearing, and any
5 adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface
6 water connection to an ESH stream.

7
8 (7) "Farming operations" means the use of land for the raising or production of livestock or
9 livestock products, poultry or poultry products, milk or milk products, fur-bearing animals; or
10 for the growing of crops such as, but not limited to, grains, small grains, fruit, vegetables, forage
11 grains, nursery stock, Christmas trees; or any other agricultural or horticultural use or animal
12 husbandry or any combination thereof. Wetlands, pasture, and woodlands accompanying land
13 in the farming operations are also defined as part of the farming operations.

14
15 (8) "Intermittent Stream" means a stream or other waterway which flows during a portion of
16 every year.

17
18 (9) "Maintenance" or "maintenance activity" means channel upkeep and removal from the
19 channel of sediment, vegetation or debris, in the minimum amount necessary to restore the
20 serviceability of the traditionally maintained channel for facilitating drainage.

21
22 (10) "Material" means rock, gravel, sand, silt and other inorganic substances and large woody
23 debris, removed from waters of this state and any materials organic or inorganic that constitute
24 fill placed in waters of this state.

25
26 (11) "Perennial Stream" means a stream that has continuous flow in parts of its bed all year
27 long during years of normal precipitation.

28
29 (12) "Riparian vegetation" means plant communities consisting of plants dependent upon or
30 tolerant of the presence of water near the ground surface for at least part of the year.

31
32 (13) "Regional Dry Maintenance Time Period" means that period of time designated by the
33 Oregon Department of Fish and Wildlife as the permissible time period for that region in which
34 to begin and complete maintenance activities for a traditionally maintained channel.

35
36 (14) "Routinely subject to maintenance" means the periodic upkeep of a traditionally
37 maintained channel to maintain the minimum drainage functions necessary to facilitate
38 drainage related to farming operations.

39
40 (15) "Serviceable for facilitating drainage" means the minimal maintenance to a traditionally
41 maintained channel so that it adequately facilitates drainage of farming operations.

1 (16) “Streambank” or “bank” means the physical container of the waters of this state, bounded
2 on freshwater bodies by the ordinary high water line or bankfull stage, and in tidal bays and
3 estuaries by the limits of the highest measured tide. The “bed” is typically the horizontal section
4 and includes non-vegetated gravel bars. The “bank” is typically the vertical portion.
5

6 (17) “Traditionally maintained channel” means the channel of a segment, set of segments or
7 the entirety of a drainage ditch, intermittent stream or perennial stream that:
8

9 (a) Has been routinely subject to maintenance to facilitate drainage related to farming or
10 ranching operations as consistent with law; and
11

12 (b) Has been serviceable for facilitating drainage within the past five years.
13

14 (18) “Valid notice” or “Valid Notification” means a completed notification on a form provided
15 by the Oregon Department of Agriculture, reviewed by the Oregon Department of Agriculture,
16 and posted on the Oregon Department of Agriculture website.
17

18 (19) “Waters of This State” means natural waterways, tidal and non-tidal bays, intermittent
19 streams, constantly flowing streams, lakes, wetlands, that portion of the Pacific Ocean that is in
20 the boundaries of this state, all other navigable and non-navigable bodies of water in this state
21 and those portions of the ocean shore, as defined in ORS 390.605, where removal or fill
22 activities are regulated under a state-assumed permit program as provided in 33 U.S.C. 1344(g)
23 of the Federal Water Pollution Control Act, as amended.
24

25 (20) “Wetland” or “Wetlands” means those areas that are inundated or saturated by surface or
26 ground water at a frequency and duration sufficient to support, and that under normal
27 circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil
28 conditions.
29

30 **OAR 603-095-4010**

31 **Agricultural Channel Maintenance Regions** 32

33 (1) The Oregon Department of Agriculture shall create five regions of the state for the purpose
34 of implementing these rules.
35

36 (2) Upon adoption of these rules:

37 (a) Region One will become operable/effective upon adoption of these rules in 2020.
38

39 (b) Region Two will become operable/effective no later than May 1, 2021.
40

41 (c) Region Three will become operable/effective no later than May 1, 2022.
42

43 (d) Region Four will become operable/effective no later than May 1, 2023.

(e) Region Five will become operative/effective no later than May 1, 2024.

OAR 603-095-4015

Notification to the Oregon Department of Agriculture – Maintenance Without a Permit; Types of Maintenance Activities

(1) Notwithstanding the permit requirements of ORS 196.810, a person may engage in removal activities or fill activities, or both, without a permit from the Oregon Department of State Lands if:

(a) The person has a valid notice of maintenance activities on file with the Oregon Department of Agriculture and posted to its website prior to initiating these activities for the maintenance of a traditionally maintained channel; and

(b) The maintenance activities are conducted in compliance with the notice described in paragraph (a) of this subsection and with ORS 196.913 and 196.915.

(2) Notification to the Oregon Department of Agriculture shall be given for the maintenance activities of existing traditionally maintained channels that meet the following:

(a) Limited to maintenance of drainage ditches or intermittent streams that are in existence or operation at the time of the activities, and

(b) Have been routinely subject to maintenance so as to facilitate drainage related to farming operations, and

(c) Traditionally maintained channels that have been serviceable for facilitating drainage within the past five calendar years as determined at the time of notification.

(d) Maintenance activities do not include those activities prohibited by the mandatory conditions or otherwise prohibited by these rules.

(3) Activities not covered by notification. A notification may not be filed for the following activities:

(a) Activities within a channel that is not a traditionally maintained channel, as defined in 603-095-4005(17).

(b) Any channel that has not been routinely subjected to maintenance in order to facilitate drainage and has not been subjected to facilitated drainage within the past five years.

(b) Development or construction of new channels where no channel previously existed, or alteration of a channel that has not been serviceable for facilitating drainage within the past five calendar years as of the date of intended notification, or channel relocation activities as defined in ORS 196.800(1).

(c) Maintenance activities that will result in converting wetlands to uplands.

(d) Maintenance activities that will change the depth or functionality of a wetland.

(e) Maintenance activities that will result in the removal of more than 3,000 cubic yards per linear mile of traditionally maintained channels over the course of the five-year notification period.

(f) Maintenance activities that will result in the spreading of material in a wetland or converted wetland in a volume greater than 3,000 cubic yards per linear mile of traditionally maintained channels over the course of the five-year notification period.

(g) Maintenance activities that will result in a change in location of a channel caused by the digging of a new channel and the diversion of the flow from the old channel into the new channel.

(h) Maintenance activities that will result in an increase in the width or depth of the traditionally maintained channel beyond the width or depth of the traditionally maintained channel that is routinely maintained to facilitate drainage .

(i) Alteration or fill of wetlands, as addressed in ORS 196.687.

(j) Any activity that would otherwise require a permit from the Oregon Department of State Lands as provided in ORS 196.682 et seq. or as required pursuant to OAR 603-095-4025(2).

603-095-4020

Notification to Oregon Department of Agriculture – Districts and Persons

(1) Notwithstanding the permit requirements of ORS 196.810, a district organized under ORS chapter 545, 547, 552 or 553 or a district improvement company or district improvement corporation organized under ORS chapter 554 may engage in removal activities or fill activities, or both, for conducting maintenance of a traditionally maintained channel without a permit from the Oregon Department of State Lands if:

(a) The district, company or corporation has a valid notice of maintenance activities on file with the Oregon Department of Agriculture and posted to its website prior to initiating activities for the maintenance of a traditionally maintained channel;

1
2 (b) The maintenance activities are conducted in compliance with the notice described in
3 paragraph (a) of this subsection and with ORS 196.913 and 196.915; and
4

5 (c) The governing body of the district, company or corporation, as part of the notice filed
6 pursuant to subsection (3) of this section, agrees to submit to the jurisdiction of the Oregon
7 Department of State Lands and the Oregon Department of Agriculture for purposes of
8 enforcement of ORS 196.906 to 196.919.
9

10 (2) At least 60 days prior to initiating removal or fill activities consistent with these rules and
11 ORS 196.906 – 196.919 any person or district seeking to conduct these maintenance activities
12 must provide notice to the Oregon Department of. The notice submitted to the Oregon
13 Department of Agriculture must be complete and accurate.
14

15 (3) The Department shall determine if the notice is complete and accurate within five days of
16 receiving a notice. The notice will be considered received only when the required information is
17 complete and accurate and the necessary forms are on file at the Oregon Department of
18 Agriculture. The Department shall promptly return incomplete or inaccurate notifications to the
19 submitting party, and maintenance activities under ORS 196.906 – 196.919 and these rules may
20 not be initiated.
21

22 (4) Submitted notifications shall be completed on forms provided by the Oregon Department of
23 Agriculture. The level of detail required may vary by maintenance activity complexity, potential
24 impact, and other factors. In addition to any additional information required by the
25 Department, the notice must include:
26

27 (a) A map to scale or aerial photograph, on which all maintenance activities are clearly
28 delineated. The following information shall be shown on or accompany the map or aerial
29 photograph:
30

31 (i) The location of and linear miles of channel to be maintained shall be clearly depicted. The
32 start and stop points of each segment proposed for maintenance shall be identified with the
33 latitude and longitude coordinates.
34

35 (ii) The estimated volume per linear mile of material that will be removed over the five-year
36 period from the channel.
37

38 (iii) The location of all temporary and permanent areas where the fill material will be placed.
39 Describe the placement method (e.g., piled, spread in a thin layer less than 0.5 inch, etc.).
40

41 (iv) For all temporary areas where material will be placed, the date by when the material will be
42 removed, and the location of where the material will be permanently placed. Describe the
43 placement method (e.g., piled, spread in a thin layer less than 0.5 inch, etc.)

1
2 (v) If the maintenance activities will be undertaken in part by a district, company or corporation
3 described in subsection (1) of this section and in part by persons subject to the jurisdiction of
4 the district, company or corporation, clearly identify which activities will be undertaken by the
5 district, company or corporation and which activities will be undertaken by a person subject to
6 the jurisdiction of the district, company or corporation
7

8 (b) Where more than one maintenance activity is occurring under a single notification then
9 each activity must be delineated as described in subsection (a).
10

11 (5) The person conducting the maintenance activities in the notification shall immediately
12 contact the Oregon Department of Agriculture and report any subsequent change to
13 information contained in the notification. However, any additions to the locations of activities
14 described in the notice shall require a separate notification. The separate notification shall be
15 submitted prior to conducting any maintenance activities.
16

17 (6) Except as otherwise provided in these rules, the Oregon Department of Agriculture shall
18 provide a response to a notice that is filed with the Department no later than 45 days after a
19 complete notification is received. The response shall include any conditions in addition to
20 those required under ORS 196.913 and OAR 605-095-4030(1), pursuant to the process
21 described OAR 603-095-4025, for maintenance activities to occur in the traditionally
22 maintained channel without a removal or fill permit.
23

24 (a) In addition to mandatory conditions that must be provided for each notice per OAR 603-
25 095-4030(1), the Oregon Department of Agriculture may also include those conditions
26 recommended by the Oregon Department of Fish and Wildlife and shall include any conditions
27 provided by the Oregon Department of State Lands.
28

29 (7) Work as described in the notice may not commence until the notification has undergone
30 review as described in these rules and all mandatory and required conditions for the
31 notification are posted on the Oregon Department of Agriculture website. The five-year
32 effective date for the notice starts on the date that the notification with conditions is posted on
33 the Department website.
34

35 (a) If the Oregon Department of Agriculture does not provide a response to a notice within the
36 time period described in this subsection, maintenance activities may proceed as described in
37 the notice and pursuant to ORS 196.913 and these rules.
38

39 (8) Valid notices posted on the Oregon Department of Agriculture website will contain all
40 conditions required to proceed with maintenance activities for a traditionally maintained
41 channel. Once posted to the website, a copy of the valid notice will be sent to the address on
42 the notification via US mail and email.
43

(9) If a variance is granted by the Department, the terms and conditions of the variance shall be incorporated into the conditions of an amended valid notice and posted as part of the notification on the Department website.

OAR 603-095-4025

Review of Notification; Consultation with the Oregon Department of Fish and Wildlife; Final Determination by the Oregon Department of State Lands

(1) No later than five days after receiving a complete notification, the Oregon Department of Agriculture shall provide a copy of the notice to the Oregon Department of Fish and Wildlife.

(2) Upon receiving a response from the Oregon Department of Fish and Wildlife, the Oregon Department of Agriculture shall include in a valid notice any recommendations received unless it disagrees with the recommendations.

(a) Upon receiving a copy of the notice, the Oregon Department of Fish and Wildlife has 30 days to respond to the Oregon Department of Agriculture. The Oregon Department of Fish and Wildlife response may indicate that a review was conducted and work may proceed, or may provide the Oregon Department of Agriculture with recommended conditions.

(b) If the Oregon Department of Agriculture disagrees with any Department of Fish and Wildlife recommended conditions, the Oregon Department of Agriculture may consult with the Oregon Department of Fish and Wildlife to resolve the disagreement.

(c) If the two agencies do not reach consensus on how to address the disagreement, the Oregon Department of Agriculture shall provide a copy of the notice, the recommendations of the Oregon Department of Fish and Wildlife, and a summary of the disagreement to the Oregon Department of State Lands.

(d) Within five days of receiving the information in subsection (2)(c) above, the Oregon Department of State Lands has authority to make the final determination of what additional conditions may be necessary for the maintenance activity to occur without a removal or fill permit, or whether the activity may occur without a removal fill permit.

(3) Referral of a notice and recommendations by the Oregon Department of Agriculture to the Oregon Department of State Lands is considered a response for the purposes of OAR 603-095-4020(5).

OAR 603-095-4030

Mandatory Notice Conditions

(1) A valid notice shall include the following mandatory conditions under which traditionally maintained channel maintenance activities must occur. A valid notice may also include

recommended conditions as provided in OAR 603-095-4025(2) which become mandatory for the purposes of determining compliance with a valid notice.

(a) A traditionally maintained channel must be dry before the commencement of any removal activities in the channel. If there is standing water in the channel that is due to a single rain event and the presence of the water is not indicative of a perennial stream, a person must request a variance on a form provided by the Oregon Department of Agriculture prior to initiation of channel maintenance activities.

(b) A person must begin and complete activities that require removal of material from the traditionally maintained channel during the applicable regional dry maintenance time, as designated by the Oregon Department of Fish and Wildlife, for the region where the traditionally maintained channel is located.

(c) The body of any motorized equipment that is used to conduct removal or fill activities must be operated from the streambank or bank of the channel, with only the bucket of the motorized equipment that actively removes material operating within the channel.

(d) Any excavation of the bottom of the channel must be on a smooth grade and in a manner that does not create depressions or grade changes within the channel.

(e) Maintenance activities must be conducted in a manner that minimizes new erosion in the channel.

(f) Removal of woody vegetation must be limited to the minimum amount needed to complete the maintenance activity.

(g) Revegetation must occur for any riparian areas that serve as a buffer adjacent to the channel and that experience vegetation loss as a result of the maintenance activity. This condition is satisfied whether revegetation occurs naturally or after seeding. Revegetation shall result in adequate ground cover to keep the banks stable and prevent erosion. Revegetation shall not result in the establishment of noxious weeds as identified by the Oregon Department of Agriculture as an A List Weed or B List Weed at the time of the revegetation work.

(h) All work related to the maintenance activity must be conducted only from one bank of the channel, on either the north or east side, when practicable, to minimize the ecological impacts of the maintenance activity.

(i) Motorized equipment used for maintenance activities must utilize existing crossings, if crossing the channel is necessary to complete maintenance activities.

(j) Maintenance activities must begin at the most upstream location of the traditionally maintained channel and progress downstream.

1
2 (k) Material that is removed from the channel may be temporarily placed in a wetland or
3 converted wetland to dry, provided that the material must, no later than one-year after the
4 date that the maintenance activity was completed, be moved uplands or be spread in a thin
5 layer outside the riparian area that serves as a buffer adjacent to the channel.

6
7 (l) Maintenance activities may not result in converting wetlands to uplands and may not
8 materially change the depth or functionality of a wetland.

9
10 (m) Impacts to wetlands caused by channel maintenance activities must be temporary and
11 must be limited to impacts related to accessing the site to conduct removal activities in the
12 channel, the removal of material and the disposal of material.

13
14 (n) Maintenance activities may not result in a change in location of a channel through the
15 digging of a new channel and the diversion of the flow from the old channel into the new
16 channel. Maintenance activities may not cause or result in increasing the width or depth of the
17 channel beyond the width or depth to which the channel has routinely been maintained to
18 facilitate drainage.

19
20 (o) Maintenance activities must not result in alteration of any existing inlet or outlet
21 connections with other waterways.

22 23 **OAR 603-095-4035**

24 **Certifications of Compliance with Other Applicable Laws**

25
26 (1) No person may conduct channel maintenance activities in a manner that violates applicable
27 laws related to fish passage or water quality.

28
29 (2) In order to maintain a simple regulatory approach for the maintenance of traditionally
30 maintained channels used for agricultural drainage and also to conduct maintenance activities
31 in a manner that protects, maintains or improves the ecological functions of the channels,
32 persons filing a notification must certify that the person conducting the maintenance activities
33 will comply with OAR 603-095-4030(2) by certifying that all of the following are applicable to
34 the location where the maintenance activities will be conducted:

35
36 (a) Non-point Source Pollution. A person filing a notification with the Oregon Department of
37 Agriculture must certify that they have reviewed and, in conducting channel maintenance
38 activities, will comply with relevant statutes and rules governing those activities as provided in
39 ORS 568.900 et seq. and the agricultural water quality management plans and rules governing
40 the area where maintenance activities will be conducted.

41
42 (b) Regional Dry Maintenance Time. A person filing a notification with the Department must
43 certify that the planned maintenance activities will occur only during the regional dry

1 maintenance time period for the area of the planned maintenance activities, as designated by
2 the Oregon Department of Fish and Wildlife.

3
4 **OAR 603-095-4040**

5 **Prohibitions**

6
7 (1) No person may commence any removal or fill activities for the maintenance of a
8 traditionally maintained channel unless a valid notice is posted on the Oregon Department of
9 Agriculture website or unless a removal fill permit, pursuant to ORS Chapter 196.911 is
10 obtained from the Oregon Department of State Lands.

11
12 (2) No person may commence any removal activities in a traditionally maintained channel that
13 is not dry unless a variance is obtained from the Oregon Department of Agriculture. The
14 variance may be granted for a channel that is not dry due to a rain event and not indicative of a
15 perennial stream.

16
17 (3) A person with a valid notice may not conduct activities that result in removal of more than
18 3,000 cubic yards per linear mile of a traditionally maintained channel over the course of the
19 five-year period for which the notice is valid.

20
21 (4) A person with a valid notice may not spread material excavated under a valid notice in a
22 wetland or a converted wetland in a volume of greater than 3,000 cubic yards per linear mile of
23 traditionally maintained channel over the course of the five-year period for which the notice is
24 valid.

25
26 (5) A person with a valid notice may not conduct any maintenance activities, remove or place
27 fill material in a channel that has been designated by the Oregon Department of State Lands as
28 Essential Indigenous Anadromous Salmonid Habitat, per ORS 196.810.

29
30 (6) A person with a valid notice may not, through the conduct or result of any maintenance
31 activities, enlarge a water right or cause injury to an existing water right.

32
33 (7) Maintenance activities must be consistent with the valid notification.

34
35 (8) No work associated with a valid notice may result in the permanent conversion of wetlands
36 to uplands.

37
38 **OAR 603-095-4045**

39 **Variances**

40
41 (1) Prior to initiation of maintenance activities, a person with a valid notice on file with the
42 Oregon Department of Agriculture may request a variance from any mandatory condition in the

1 valid notice. Commencement of channel maintenance activities may not occur until the
2 Department provides a concurrence or denial of the variance request.

3
4 (2) Requests for a variance must be submitted on a form provided by the Department of
5 Agriculture and shall include at a minimum the following information:

6
7 (a) The mandatory condition(s) that are the subject of the request for the variance;

8
9 (b) The reasons for the request for the variance; and

10
11 (c) Proposed alternative actions that avoid or reduce the adverse effects to the resource and
12 that protects, maintains, or improves the ecological function of the channel(s).

13
14 (3) Within five days of receiving a complete variance request form, the Oregon Department of
15 Agriculture shall forward the request for variance to the Oregon Department of Fish and
16 Wildlife for review and consultation.

17
18 (4) After consultation with the Oregon Department of Fish and Wildlife, the Department of
19 Agriculture may authorize the variance with additional conditions or modification of conditions.

20
21 (5) The Oregon Department of Agriculture may decide to deny the variance request.

22
23 (a) All actions performed under a variance must demonstrate that they avoid or reduce the
24 adverse effects to the resource, and that they protect, maintain, or improve the ecological
25 function of the channel(s).

26
27 (b) If a request for variance is not granted, work under the notice may commence and proceed
28 only in accordance with mandatory conditions posted in the valid notice on the Department
29 website.

30
31 **OAR 603-095-4050**

32 **Entry Upon Land**

33 (1) Subject to paragraph (2) of this subsection, the Oregon Department of Agriculture or the
34 State Department of Fish and Wildlife may enter onto and inspect lands for which notices have
35 been filed under ORS 196.900 – 196.919 and these rules in order to develop the
36 recommendations and response required by under ORS 196.900 – 196.919 and these rules or to
37 ascertain compliance with ORS 196.900 – 196.919 and these rules.

38 (2) To enter onto and inspect lands under this subsection:

39 (a) The Oregon Department of Agriculture shall first make a reasonable attempt to notify the
40 landowner;

(b) The department may only enter onto and inspect the lands at a reasonable time.

OAR 603-095-4055

Compliance and Enforcement Procedures

(1) Upon finding that a person has engaged in removal activities or fill activities for the maintenance of a traditionally maintained channel without a permit required under ORS 196.810 and in violation of ORS 196.911, 196.913, or 196.915, and these rules, the Oregon Department of Agriculture, in consultation with the Oregon Department of State Lands and the Oregon Department of Fish and Wildlife, shall notify the person and direct the person to take any actions necessary to bring the maintenance activities into compliance with ORS 196.911, 196.913, or 196.915 and these rules within a reasonable period of time.

(2) In all cases, the Oregon Department of Agriculture, in consultation with the Department of State Lands, shall make reasonable efforts to induce voluntary compliance, prior to the assessment of any civil penalty under ORS 196.890 for violation of ORS 196.911, 196.913, or 196.915 and these rules.

(a) If the Oregon Department of Agriculture efforts do not achieve compliance, the Department may refer the case to the Oregon Department of State Lands to take any enforcement actions.

OAR 603-095-4060

Expedited Review

(1) Upon a request from the person submitting a notice under ORS 196.911 and these rules, the Oregon Department of Agriculture and the Oregon Department of Fish and Wildlife may provide for expedited review under ORS 196.915(4) and these rules, if the expedited review is necessary to allow for maintenance activities to occur within a specific time period.

(2) Expedited review requests shall be completed on a form provided by the Oregon Department of Agriculture. The form must be filled out completely and accurately. If not the Oregon Department of Agriculture may deny the request. The Department, in consultation with the Oregon Department of Fish and Wildlife, will consider immediate threats to public health, safety, or substantial property, including crop and farm land.