



Public Rule Hearing and Information Session

Permitting and Mitigation in
Oregon's Waters and Wetlands
(Division 85)

October 20, 2025



Elk Creek, Elliot State Forest

Agenda



Columbia River – Sand Island / Dan Cary, DSL (retired)

6:30 PM

Information Session:

- Rulemaking Overview
- Summary of Proposed Rule Changes and Examples
- Question and Answer Session

7:00 PM

Public Rule Hearing

- Oral Comments

Zoom Protocols



Each person who wishes to speak will be asked to raise their hand.

- To raise your hand, click the reactions near the bottom of your screen and click “raise hand” or by pressing star 9 if you are on the phone.
- *For technical support, please message us in the chat.*
- Please keep your mic muted unless it is your turn to speak. Use of video is encouraged.
- We ask that all participants be respectful of each other and DSL representatives.

Rulemaking Overview



Why is DSL proposing rulemaking?



- Impacts to streams and rivers require mitigation and that requirement needs to be consistent, predictable, and effective.
- Mitigation banking process needed clarity specific to the type of banking (individual mitigation bank, umbrella bank, or In-Lieu-fee program).
- Addressing loss of wetland acreage from compensatory mitigation methods.
- Reduce barriers to voluntary habitat restoration.

Rulemaking Goals



- Clarity, efficiency, and transparency of regulatory process.
- Stream compensatory mitigation framework that is predictable and effective.
- Address gaps in guidance for umbrella mitigation banks, and in-lieu fee programs.

Rulemaking Goals



- Attainment of “no net loss” of wetlands through the RF program
- Reducing limitations on which projects are considered habitat restoration.
- Increase options of tools for mapping coastal of waters and wetlands improvements.

Rulemaking Advisory Committee



- Representatives of local governments, state agencies, mitigation banking community, environmental consultants, Cow Creek Bank of the Umpqua Tribe of Indians, and permit applicants
- 11-member committee
- Convened from March 2025-Aug 2025; six meetings total

Summary of Proposed Rule Changes



Overview of Proposed Rule Changes



- Stream Compensatory Mitigation
- Compensatory Mitigation Banking
- Mitigating for “No Net Loss”
- Estuary Mapping
- Aquatic Resources of Special Concern
- Habitat Restoration Projects
- Compensatory Mitigation Sites Owned by a Tribe

Stream Compensatory Mitigation



- Replacing lost stream functions by a standardize calculation.
- In-kind replacement for highly valued functions.
- Mitigation requirement for hardening streams.
- Options for simplified mitigation accounting for low impact projects.

Compensatory Mitigation Banking



- Reorganized Rules on mitigation banking projects:
 - Order of rules matches process steps.
 - All types of mitigation banking covered (individual mitigation banks, umbrella mitigation banks, and In-Lieu-fee programs) and identification when the information requirements differ by type of banking project.
- OAR 141-085-0720 to 141-085-0745

Mitigating for “No Net Loss”



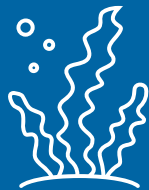
- Encouraging gains in wetland acres in Oregon
- Moving a directive from Oregon law (Statute) to the administrative rules on principal objective for mitigation and special requirements for enhancement mitigation:
 - Increase wetland resources through restoration and creation, where appropriate.
 - Not reduce Oregon’s resource base of wetlands in locations with disproportionate wetland loss.
- OAR 141-085-0680(2)(f) and 141-085-0694(1)(g)

Estuary Mapping



- Adding the option to use an elevation-based estuary extent model (EBEEM) to determine highest measured tide elevation.
- Can be used in wetland and waters delineations and in removal-fill permitting.
- Hosted by the Pacific Marine & Estuarine Fish Habitat Partnership and available for free download
<https://www.pacificfishhabitat.org/data/estuary-extents>
- This option is added to OAR 141-085-0515(2).

Aquatic Resources of Special Concern



- Updated the definition of Aquatic Resources of Special Concern (ARSC).
- Adding “irreplaceable” and “difficult to replace” to the factors considered.
- Waters of this State that provide functions values and habitats that are:
 - Irreplaceable/difficult to replace.
 - Limited in quantity by natural rarity or disproportionate loss.
- OAR 141-085-0510(3)

Habitat Restoration Projects



- Updating the definition of Habitat Restoration to
 - Remove requirement for project to return site to past conditions; and
 - Adding statement that project improves ecological condition.
- OAR 141-085-0510(41)

Compensatory Mitigation Sites Owned by a Tribe



- Removing the ambiguity in current rule regarding the site protection requirements for a compensatory mitigation site owned by one of Oregon's nine federally recognized Tribes.
- Requirements same as for publicly-owned sites.
- OAR 141-085-0695(3)

Questions?



White City Vernal Pools / Dan Cary, DSL (retired)

Public Rule Hearing



Metolius River, Camp Sherman / Jessica Salgado, DSL



Commenters have a 3-minute time limit.
Please state your name and affiliation.

Provide Written Comment

Written comments may be submitted
through October 31, 2025, at 5:00 p.m.
by:



Email

dsl.rules@dsl.oregon.gov



Online form

[https://www.oregon.gov/dsl/Pages/rulemaking.a
spx](https://www.oregon.gov/dsl/Pages/rulemaking.aspx)



Mail

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What's Next?

Mary's River Wetland Mitigation Bank / Barbara Poage, DSL

- DSL will review and consider all written and oral public comments.
- The proposed rules will go through an internal review and approval process.
- It is anticipated that the final proposed rules will be filed with the Secretary of State in early 2026, with the rules becoming effective in Spring 2026.



Thank You!

Oregon Department of State Lands

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Oregon.gov/DSL

Mary's River Wetland Mitigation Bank / Barbara Poage, DSL