



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

RAC Meeting # 4 Summary

June 12, 2025; 1:00 p.m.

Overview

The Permitting and Mitigation in Oregon's Wetlands and Waters (Division 85) Rulemaking Advisory Committee was convened by the Oregon Department of State Lands (DSL) on June 12, 2025, via Zoom. The RAC was convened to provide input on proposed amendments to the administrative rules governing permitting and mitigation in wetlands and waters.

RAC Members and Attendance

Name	Affiliation	Present?
Members		
Becky Kreag	Board Member, The Wetlands Conservancy	X
Brad Livingston	Wetlands Program Lead, Oregon Department of Transportation	X
Brian Cook	Permitting Program Manager, Clean Water Services	X
Dana Kurtz	Senior Environmental Scientist, Anderson Perry	X
Emily Alcott	Principal Ecologist & Fluvial Geomorphologist, Interfluve	
Jesse Steele	Executive Director, Grande Ronde Model Watershed	
Jonas Moiel	Senior Ecologist / Principal, Green Banks, LLC	X
Julia Bond	Alternate for Kaitlin Lovell, City of Portland	X
Kaitlin Lovell	Mitigation Banking Policy Director, City of Portland	
Mackenzie Butler	Alternate for Emily Alcott Senior Fisheries Biologist, Interfluve	X
Marnie Keller	Environmental Services Programs Manager, Cow Creek Band of Umpqua Tribe of Indians	
Melissa Brown	Alternate for Julia Bond, City of Portland	X
Michael Martin	League of Oregon Cities	
Ron Wierenga	Deputy Director, Clackamas Water Environment Services (Association of Oregon Counties representative)	
Sue Brady	Alternate for Dana Kurtz , Anderson Perry	X
Staff		
Danielle Boudreaux	Department of State Lands	X
Grey Wolf	Department of State Lands	
Melody Rudenko	Department of State Lands	X
Dana Hicks	Department of State Lands	X

Jane Rombouts	Department of State Lands	X
Jevra Brown	Department of State Lands	X
Jackson Morgan	Department of State Lands	X
Advisors		
Joy Lovett	Advisor Land Use and Waterway Alterations Coordinator, Oregon Department of Fish and Wildlife (ODFW)	X
Shelley Tattam	Advisor 401 Program Project Manager, Department of Environmental Quality (DEQ)	
Interested Parties		
Christopher Van Drimmelen	University Real Estate & Land Stewardship at OSU	X

Welcome and Introductions

Samantha Meysohn, a facilitator from Kearns & West, welcomed participants to the fourth meeting of the Rulemaking Advisory Committee (RAC) for Permitting and Mitigation in Oregon's Wetlands and Waters. She highlighted the purpose of the meeting, which was to discuss the proposed draft rules relating to stream mitigation accounting and policies for special circumstances. DSL staff, RAC members, and technical advisors then introduced themselves and shared their affiliations and roles.

Agenda Review; Zoom Protocols

Samantha provided an overview of the [meeting agenda](#) and reviewed Zoom protocols, including chat usage and technical support instructions. Meeting materials were shared via email prior to the session and can also be found on the rulemaking website:

<https://www.oregon.gov/dsl/pages/rulemaking.aspx>.

Presentation– Stream Mitigation Accounting

Samantha introduced Melody Rudenko, Oregon Department of State Lands, who reviewed the stream mitigation accounting concepts previously discussed in the May RAC meeting. Melody outlined six main topics: eligibility criteria for stream mitigation, how changes in function are used in accounting, the application of value scores, the unit of measure, temporal loss adjustments, and long-term site protection adjustments. She shared that the first step in the mitigation process is confirming whether a proposed mitigation action is eligible, which includes matching by sub-basin or estuary, flow permanence, and stream size as defined by flow rather than width. If the impact site is designated as Essential Salmonid Habitat (ESH), the mitigation site must also have that designation. Melody explained that group-level function matching was removed from eligibility requirements to streamline the process.

Melody also explained how function changes are calculated using Stream Function Assessment Method (SFAM) scores for existing and predicted conditions ten years after project completion. The change in function is then weighted by the value score, and both are combined to determine the overall value-weighted change. This result is multiplied by the project length, measured in linear feet along the

stream centerline, to quantify the mitigation outcome. Melody noted that linear feet were selected as the unit of measure because it best reflects the spatial extent and quality of stream function changes.

Melody then described two adjustments applied to the mitigation calculation. The temporal loss adjustment applies when vegetation is removed at the impact site and varies depending on vegetation type, with longer-established plants like trees requiring a higher adjustment. The second adjustment is based on long-term site protection, with higher protection levels such as conservation easements reducing the mitigation obligation. These adjustments are applied to either specific functions or the overall mitigation total, depending on relevance.

Melody summarized that SFAM scores capture function changes, value scores reflect the significance of those functions, and linear feet serve as the best metric for stream mitigation accounting in Oregon. She emphasized that these components, along with adjustments, ensure fairness and consistency. To incorporate these elements into rule, DSL proposed updates to several sections. Rule 692 was revised to include the core accounting methodology, while Rule 0690 was adjusted to reflect changes in eligibility requirements. A new definition for “stream and river” was added, and Rule 0705(1)(e) was updated to require ten-year post-project assessments, with flexibility to adjust timelines as needed. Melody concluded her presentation by summarizing that these changes aim to standardize and improve the stream mitigation accounting process.

Members had the following questions and comments:

- One RAC member asked whether fee title transfer is included in the rule, noting that this type of transfer is often a more attractive option for long-term site protection.
 - *Response: It is not currently in the rule, but the language was intentionally left broad so that any form of protection could be considered. The level of protection would likely depend on who the property is transferred to. If it is transferred to a conservation organization, it would likely qualify for the higher protection tier.*
- Another RAC member asked whether a permittee who receives a 20% temporal loss adjustment for impacts, such as cutting shrub wetland, would effectively cancel out that loss if they use a mitigation bank that includes a 20% gain due to a conservation easement.
 - *Response: That is not how the adjustment is currently applied. The mitigation bank would receive 20% more credits to sell due to the conservation easement, rather than the permittee receiving a reduction in their required purchase. However, the rule language is flexible and could support applying the adjustment in a different way if it proves to be more appropriate and fair. DSL is working to avoid disincentivizing beneficial actions. This topic will require further discussion, especially in relation to mitigation banks and public buyers, who may have large impacts.*
- A RAC member followed up to confirm that although mitigation banks with conservation easements gain credits, this does not automatically offset the temporal loss adjustment imposed on a permittee.
 - *Response: Correct. The intent is not for the temporal loss to be canceled out. This approach is different from how wetlands have historically been handled. Any change*

would need to be considered carefully and discussed with interested parties to ensure consistency and fairness. DSL staff will continue to monitor this topic closely.

- One RAC member asked whether there is a threshold for ten-year post-project reporting requirements, especially for very small impact projects, such as those affecting only one linear foot.
 - *Response: The ten-year window is not intended to require ten years of monitoring. Instead, it is used to predict site outcomes and establish a balanced basis for mitigation calculations. The actual monitoring requirements will vary by project and depend on the most appropriate type of monitoring for the site.*

Discussion – Stream Mitigation Accounting

Rule 5210(90) & (95) Stream and River Definition Added

Melody introduced the next section on stream and river definitions, clarifying that the term “stream” carries the same meaning as “river” as defined in Section 510(90) of the rule language.

The following summarizes the group’s discussion:

- A RAC member asked whether an altered channel created by an irrigation district, which carries natural river water, would be considered a stream or river under the proposed definition.
 - *Response: The definition was crafted to avoid influencing which waters are considered jurisdictional under state law. A human-made irrigation canal alone would not be considered jurisdictional and would not be included in the stream or river definition. However, if the canal is combined with a natural stream, as occurs in some areas where a district uses a natural channel for water conveyance, it may be considered jurisdictional. The definition includes “natural bodies of water altered by humans,” but not completely artificial channels. This clarification helps separate streams and rivers from other jurisdictional categories such as wetlands, lakes, and ponds, which are addressed under different rules.*
- Another RAC member commented that it is helpful the definition clarifies that a river must flow on the earth’s surface.
 - *Response: Yes, this clarity was intentional, and we appreciated the feedback.*

No changes were proposed to the definition of stream beyond clarifying its reference point. There were no questions or comments from RAC members regarding this section.

Rule 0690(3)(b)(B) & 0690(3)(b)(C) Stream Mitigation Eligibility Criteria

Melody provided an overview of proposed changes to Rule 0690, including structural reorganization and the introduction of stream size categories (small, medium, and large) aligned with Department of Forestry guidance. A key revision was to part 0690(3)(b)(C), removing the requirement for group-level function matching for streams, which now only applies to wetlands.

The following summarizes the group’s discussion:

- One RAC member shared that they have seen both small surpluses and slight deficits in stream function scores after applying the accounting process and suggested that DSL consider a threshold for when compensatory mitigation is triggered. They asked whether the threshold could be set at one foot, ten feet, or another measure. They also asked if agencies like the Oregon Department of Transportation, which often experience uplift, should be tracking surplus credits for future use.
 - *Response: We have considered the concept of surpluses and support the idea of allowing permittees to reserve credits for future use. Regarding thresholds, the group reviewed existing policies and found that mitigation requirements are typically determined before the accounting stage, based on jurisdictional status and project characteristics. If mitigation is required, the amount is based on the accounting results. In cases of very small impacts, project adjustments may reduce mitigation needs. DSL does not currently have a precedent for establishing a minimum threshold that would remove the mitigation requirement entirely once triggered.*
- The RAC member responded that they were not fully satisfied and expressed concern about triggering off-site mitigation for minimal impacts. They suggested that the RAC consider this threshold issue further.
 - *Response: In future sections in the presentation, we will address certain thresholds for stream projects, similar to how wetlands have thresholds that affect the level of detail required. However, there is no existing policy that exempts small impacts from mitigation once the requirement has been triggered. DSL has historically not used a drop-off threshold, and the agency is cautious about creating one.*
- A RAC member asked whether watershed priorities should be mentioned when determining replacement, particularly in cases where function matching is not exact.
 - *Response: Watershed priority remains an option and is included in the eligibility portion of the rule. The removal of group-level matching simplifies the process, but DSL acknowledged this suggestion and will continue to consider its relevance in context.*
- One RAC member supported the idea of considering thresholds, especially for small stream impacts in Eastern Oregon. They described projects where bank stabilization after floods involves minor impacts that are intended to be restorative and cost-effective. They recommended including a threshold or alternative approach for small-scale or self-mitigating projects.
 - *Response: Projects like that may already be eligible for General Authorizations (GA), which allow low-impact activities with streamlined permitting. These actions do not require individual mitigation. DSL noted that this rulemaking was designed to follow GA rulemaking, which had already expanded the types of projects that qualify for that exemption.*
- A RAC member followed up by asking whether there could still be an off-ramp or exemption if a mitigation requirement is triggered, but the calculated impact is very small.

- *Response: The current thresholds are not intended to serve as off-ramps from mitigation but rather simplify the permitting process when applicable. DSL invited further comments if stakeholders feel additional exemptions or clarifications are needed.*

Rule 0692(3)(d) and 0692(4)(a) & 0692(4)(a)(C) Stream Mitigation Minimum Requirements and Mitigation Accounting Method

Melody introduced Rule 0692(3)(d), focusing on part D, which introduces the formal stream mitigation calculation protocol using SFAM. She clarified that the proposed language ensures clarity and consistency across projects and emphasized that no other changes were required to address temporal loss or long-term protection, as those are already built into the rule.

The following summarizes the group's discussion:

- Another RAC member suggested clarifying the rule language to state "replacement greater than or equal to" since some mitigation activities may result in enhanced or additional credit. They also asked whether the calculator should be referenced explicitly in the rule, noting that the results of multiplying length by scores do not always match the calculator's output.
 - *Response: The calculator performs the same formulas shown in the presentation but automates them to reduce manual errors. If calculated function changes are done by function and combined with length, the results will match. DSL is planning to create a more user-friendly version of the calculator following this rulemaking process.*
- Another RAC member asked how mitigation is handled for projects where SFAM does not apply, such as in the Columbia River, and whether a one-to-one replacement ratio is used in those situations.
 - *Response: When SFAM is not applicable, such as in large rivers or where conditions exceed current model limits, the agency falls back on existing case-by-case methods. In these scenarios, DSL would likely apply a one-to-one replacement ratio. This maintains consistency with current practice. DSL intentionally left room in the rule for flexibility in determining predicted conditions for post-project assessments. Although DSL used ten years as a baseline for forecasting function changes, the department may set different timeframes based on site-specific conditions. This language allows the rule to apply to various assessment methods beyond SFAM. This timeline does not replace existing monitoring requirements, which still mandate a minimum of five years unless otherwise determined. DSL confirmed that flexibility is maintained in the rule.*

705(1)(e): Predicted Conditions Function and Values Assessment for Mitigation Projects Based on 10-Years Post Project

Melody Rudenko, DSL, explained that 0705(1)(e) requires the use of predicted conditions in the stream function and values assessment based on a ten-year post-project timeframe. This means that when calculating mitigation outcomes, DSL expects applicants to estimate the stream functions as they would be ten years after the project is implemented. Melody clarified that this does not mean DSL will require ten years of monitoring data. Instead, the ten-year projection is used to create a consistent and standardized basis for evaluating long-term functional outcomes. This approach reflects the time needed for stream functions to stabilize and mature, and ensures that mitigation planning is based on realistic expectations of functional recovery.

The following summarizes the group's discussion:

- One RAC member asked whether the ten-year assessment requirement would apply to very small projects, such as those with only one or two linear feet of impact. They expressed concern about the burden this could create for minor activities.
 - *Response: The ten-year reference is not intended to require ten years of monitoring. Instead, it establishes a standard timeframe for estimating future stream functions at mitigation sites. The actual monitoring duration and requirements will be determined based on the specifics of each project, and smaller projects may warrant a less intensive approach.*
- Another RAC member questioned how predicted outcomes should be documented for permit applications, particularly for projects without long-term monitoring or modeling resources.
 - *Response: DSL will provide guidance on how to estimate predicted conditions at the ten-year mark using professional judgment and available tools. The ten-year projection is meant to ensure consistency in assessing mitigation performance, not to impose an unrealistic data collection standard.*

Presentation– Policies for Special Circumstances

Samantha introduced Melody who presented on the proposed policies for special circumstances within the stream mitigation framework. Melody explained that these policies are designed for scenarios where the standard mitigation accounting protocols, such as the SFAM, do not apply logically or cannot be used effectively. These special cases fall into three main categories: a threshold for when SFAM-based accounting is required, a policy for how to proceed when SFAM cannot adequately detect the impacts of certain projects, and a provision requiring in-kind functional replacement in specific situations. Each of these policies functions independently and is intended to address unique permitting or mitigation challenges.

Melody shared that both DSL staff and external stakeholders had expressed the need for a clear and consistent method to determine when projects with very small impacts could proceed without having to undergo the full SFAM-based accounting process. The concept is comparable to DSL's approach in wetland permitting, where a threshold of 0.2 acres or less is used to simplify the permitting process for non-ESH wetlands. However, she emphasized that for streams, a simple linear measurement, such as 100 feet of impact, would be inadequate due to the variability in stream sizes. An impact of that length could be highly significant on a small stream but negligible on a large river.

To address this, DSL developed a scalable threshold that accounts for stream size and geomorphic context. The threshold is designed so that the dimensions of a project, both its width and length, are evaluated in proportion to the stream's own width. Specifically, the proposed standard considers whether the project's width is less than or equal to ten percent of the stream's channel width, and whether the project's length is less than or equal to one full channel width. This approach makes the threshold applicable across a broad range of stream sizes, ensuring that low-impact projects are not subjected to unnecessarily complex mitigation procedures.

Melody explained that in addition to the physical dimensions of the project, DSL reviewed other factors that influence whether a project has the potential to create negative effects upstream or downstream. To do this, DSL adapted evaluation criteria from a tool developed by the National Oceanic and Atmospheric Administration (NOAA) called River RAT (Restoration Analysis Tool). This tool helps NOAA staff identify projects that require higher scrutiny because they may cause channel instability or unintended geomorphic changes. Drawing from this tool, DSL included additional considerations, such as whether the streambed and banks exhibit active erosion or incision, and whether the stream substrate is composed of coarse, stable material such as bedrock or large cobbles. If a stream is stable, and a project is not introducing new hard structures such as bank stabilization materials or in-stream obstructions, it may qualify as low risk and fall within the threshold.

Melody provided examples of project types that met the proposed threshold. These included water intake structures, residential docks, and dolphin or pile installations on large rivers like the Willamette and Columbia, where the affected area is very small in proportion to the overall channel size. For example, one intake project on the Columbia River had a width of 37 feet. When compared to the river's 10,000-foot width at that location, the project clearly met the criteria of being less than ten percent in width and less than one channel-width in length. The site conditions, including a stable streambed composed of coarse material and no observable erosion or incision, further supported the project's eligibility under the simplified mitigation approach. Melody then described several project types that typically do not meet the threshold and would require the full SFAM protocol. These included new stream crossings, erosion control or scour protection projects, and roughened channel projects intended to facilitate fish passage. These types of projects generally have a greater footprint, introduce structural modifications, and may affect flow and sediment dynamics beyond the immediate site.

Melody noted that this threshold could serve multiple purposes. In addition to identifying when SFAM must be used, the threshold could also be applied to determine when DSL will require financial assurance for mitigation. Currently, DSL uses a threshold of 0.2 acres in wetland permitting to determine when such assurances are necessary, and this new stream threshold would provide a parallel structure for stream projects. She emphasized that the proposed threshold does not determine whether mitigation is required at all, that is still based on other programmatic elements such as permit type or project category, but rather when a project qualifies for a simplified, judgment-based mitigation approach. Melody also noted that DSL plans to include these policies in rule language and is seeking feedback from the RAC on whether the proposed structure is clear, appropriate, and logically aligned with the program's goals.

Members had the following questions and comments:

- One RAC member commented that the graphic looked like a mitigation project, but it seemed people were implementing it for reasons that did not necessarily improve the structure. They thought it sounded like it was intended to stop erosion or address a similar issue that was possibly problematic.
 - *Response: That is one scenario where we see these types of projects being used, particularly for streambed scour. However, the scenario we see even more often is adjusting the grade of the stream. These are not the most common projects because they are large, expensive, and difficult to implement. Sometimes people need to change*

the slope or grade of a stream so that it is not flat and then steep. These projects can adjust the stream grade and lock it into place by adding riprap. We have also seen them used where the streambed is excavated below its existing level, riprap is applied, and the stream is effectively disconnected from its floodplain and stays confined in the channel. I have not yet seen this kind of project proposed for mitigation. If it were, we could review it. However, typically in stream mitigation projects, the streams are still allowed to evolve over time. One concern we have is that the locked-in section will not adjust as easily over time, which could contribute to unraveling. This is similar to the concern with heavily riprapped banks that create effects up and downstream. We have seen those outcomes, but these newer types of projects have not been in place long enough to fully understand the outcomes.

- Another RAC member stated that these projects address landscape problems that individual permittees cannot tackle, especially in urbanized areas. They noted that their agency addresses these issues with federal partners through programmatic Endangered Species Act consultation, particularly for scour repair and bank stabilization. These engineered plans often include integrated mitigating actions to address NOAA's concerns, such as fish passage, depth of native streambed material, and size of rock. They suggested that the rule consider integrating a term like "nature-based solutions."
 - *Response: If we could get a good definition for nature-based solutions, it is definitely something we could talk more about. I have seen very inconsistent applications of that term across the nation, so I am still a little unsure how it would be interpreted. But that could be a further conversation we have.*
- One RAC member proposed a definition for nature-based solutions: "The use of natural materials and processes to reduce the need for hard infrastructure and to maintain ecosystem functions."
 - *Response: That is helpful, thank you. You mentioned NOAA, so I will just say that we have seen many hardening projects being done with the intent of fish passage. Fish species are NOAA's main concern when they are evaluating projects on streams in Oregon. DSL, however, is tasked with preserving all stream functions, rather than accepting the loss of one function to improve another. The statute is clear that we must preserve all functions. That is why we cannot make a generalized statement allowing these trade-offs in all cases. For example, disconnecting from the floodplain or removing connection to the hyporheic zone and replacing it with riprap are significant impacts. These are the kinds of impacts that SFAM cannot assess, because it is not designed to evaluate the hyporheic zone. These are outside the scope of what fish agencies like NOAA or ODFW typically regulate, and it is why we need a broader lens when assessing stream function loss.*
- A RAC member acknowledged the difficulty of fully removing hardening in urban environments and noted that streams in these areas often remain locked in place. They appreciated that the policy allows for flexibility rather than requiring fixed mitigation amounts.

- *Response: Yes, that is why we did not want a fixed adjustment, like automatically adding a set amount of mitigation when someone does a certain action. We wanted the rule to remain flexible. That is also why we want your feedback once we start reviewing examples. You can see how we are visualizing the difference between projects that would require case-by-case mitigation evaluation versus those that would use the standard accounting.*
- One RAC member asked whether the discussion was about new hardening or replacement of existing hardened infrastructure.
 - *Response: Yes, that is a good clarifying point. If that is not clear in the rule language, it is definitely a comment we would love to receive and incorporate. I assume what you are thinking of is where there is existing riprap that is falling apart or was not correctly installed, and someone needs to add more or extend it up and down. Is that right?*
- One RAC member responded that there is a difference in how impactful a project is depending on whether it involves new hardening or the replacement of existing infrastructure. In some cases, it may even be enhancing function, such as replacing a culvert with a bridge.
 - *Response: Yes, absolutely. We have an example where we worked with a city and the stream was already so hardened and urbanized that the additional work they proposed did not have a negative effect. In fact, the beneficial actions they were taking at the same time were compensating for any additional impact. So yes, we do want the rule language to allow for that kind of flexibility. We would appreciate comments to help make sure that option is clearly available.*

Discussion – Policies for Special Circumstances

Rule 0680(3)(j): Compensatory Mitigation for Bed or Bank Hardening

Melody Rudenko, DSL, explained that 0680(3)(j) establishes a requirement for compensatory mitigation when a project involves stream bed or bank hardening. She noted that this applies even if standard assessment tools like SFAM do not detect a measurable loss in function, as many hardening impacts, such as altered geomorphic processes, occur below the surface and are not captured by surface-level evaluations. Melody emphasized that DSL has observed long-term impacts from hardening activities, particularly in scenarios where SFAM cannot be applied, such as non-wadeable streams. To address these limitations, the rule includes a default mitigation requirement, with a discretionary clause allowing the department to waive it when appropriate. This ensures DSL retains flexibility for certain project types while maintaining accountability for impacts that may otherwise go unrecognized.

Members had the following questions and comments:

- One RAC member expressed concern that requiring mitigation for bed or bank hardening could disincentivize stream enhancement projects, especially in areas like the Tualatin River watershed where fine soils and lack of rock make some form of hardening necessary for stability. They shared that projects intended to improve function could be misinterpreted as hardening under the rule.

- *Response: DSL recognizes the tension between functional improvements and structural interventions. The rule includes the phrase “unless otherwise determined by the department” to allow flexibility. DSL does not intend to penalize enhancement projects but wants to ensure mitigation occurs when functional losses result from hardening.*
- Another RAC member asked whether the rule would apply when existing hardening is being replaced, such as during infrastructure updates in urban areas.
 - *Response: The rule is intended to apply to new hardening. Replacement of existing hardened infrastructure would not automatically trigger mitigation unless there is additional new impact. We can consider clarifying this in the rule language to prevent confusion.*
- One RAC member raised the point that some stream stabilization techniques, such as roughened channels or grade control structures using rock, are necessary to restore function in highly degraded, hydro-modified systems. They emphasized that such designs can accelerate functional lift and questioned how the rule would treat these scenarios.
 - *Response: Many stream improvement projects include some form of rock placement and DSL’s intent is not to discourage function-focused work. The “unless otherwise determined” clause was included precisely to allow discretion in evaluating such projects case-by-case.*

Rule 0692(3)(e) Stream Mitigation In Kind Replacement for Highly Valued Functions

Melody Rudenko, DSL, explained that 0692(3)(e) adds a requirement for in-kind replacement when a highly valued stream function is lost. While DSL will not include numeric SFAM scores in the rule language itself, the policy guidance will support the rule's implementation. Melody clarified that when a function loss is determined to be highly valued based on SFAM outputs, the mitigation must directly replace that same function. This approach aims to prevent the cumulative degradation of specific stream functions over time, especially in urbanized or degraded watersheds.

Members had the following questions and comments:

- One RAC member asked whether this in-kind requirement would affect stream mitigation banks. They specifically asked if a mitigation bank must demonstrate a gain in the same highly valued function in order to be considered in-kind.
 - *Response: Yes, if the mitigation site, such as a bank, showed a gain in the same function from baseline, then purchasing credits from that site would count as in-kind replacement. It does not have to be the highest score, only that the specific function showed improvement.*
- Another RAC member asked whether DSL would require banks to share both predicted scores and gains from baseline to demonstrate functional lift.
 - *Response: No, only the gain from baseline would be necessary. Staff would use that information in the same way they identify aquatic resources of special concern—by confirming that the mitigation site had functional gains in the same area being impacted.*

- A RAC member asked whether DSL could include language acknowledging staff discretion to allow flexibility in unique cases, particularly for small-scale enhancements or where high-value functions are only partially lost.
 - *Response: While such flexibility is important, we would prefer to address implementation nuances through guidance documents rather than rule text.*

Rule 0692(3)(g) Exceptions to Mitigation Accounting Method for Small Stream Impacts

Melody shared that 0692(3)(g) defines a threshold under which DSL will not require the full function-based mitigation accounting. This threshold is intended to streamline permitting for projects with small impacts, such as utility crossings or short bank stabilization areas. Projects falling under this threshold would be assessed case-by-case instead of using the full accounting protocol. Melody highlighted that the rule references project size, stream width, and substrate type to determine eligibility.

Members had the following questions and comments:

- A RAC member proposed replacing the word “stabilization” in this rule section with “hardening” to avoid discouraging functional improvements. They expressed concern that "stabilization" could include beneficial activities.
 - *Response: I appreciate the suggestion, and I do see that a refined definition of "hardening" might help clarify the rule's intent. The team is open to considering the language change.*
- One RAC member added that some natural variability in vertical and lateral stream migration should be accounted for in defining hardening. They suggested the definition reference the system’s “natural migration potential.”
 - *Response: There is a geomorphic nuance, and these considerations are important for interpreting how hardening is applied in specific project contexts.*

Rule 0685 (3)(c): Exception for Requiring A Stream Function and Values Assessment

Melody shared that 0685(3)(c) creates an exception to the requirement for completing a stream function and values assessment. The conditions for this exception are the same as for the threshold for using the mitigation accounting methods as defined in 0692(3)(g). . Melody clarified that this provision is intended to reduce the burden on applicants for very small-scale projects where the impact is minimal and the data required for assessment may not be practical or meaningful. The exception is designed to streamline permitting for localized activities while still ensuring that mitigation standards are applied appropriately to larger or more complex projects. No comments were made about this rule.

Rule 0700(2)(b) Waiver of Financial Security for Small Stream Impacts

Melody explained that 0700(2)(b) mirrors a similar provision for wetlands. If a stream project falls below the de minimis threshold as defined in 0692(3)(g), DSL would not require financial security from the permittee. This is intended to reduce regulatory burden for projects with small-scale or limited impacts.

Members had the following questions and comments:

- A RAC member commented their support for this rule staying in alignment with the threshold defined in 0692(3)(g) to avoid confusion across rule sections.

Interested Party Comments

Samantha opened the floor for interested party comments; however, no comments were made.

Next Steps

Danielle outlined the upcoming schedule for the next RAC meeting on July 9, 2025. She explained that a meeting agenda will be sent to RAC members by July 2, along with a list of the rules to be presented.

Additionally, Danielle shared that office hours for RAC members will be held at 10 a.m. on Monday, July 7, specifically for technical questions and answers in preparation for the July 9 meeting.

Lastly, Danielle shared that the Meeting #4 Summary will be sent to RAC members in the coming weeks and that all meeting materials, including the most recent meeting's recording, will be posted to the rulemaking website: <https://www.oregon.gov/dsl/pages/rulemaking.aspx>

Adjourn

Samantha closed the meeting by thanking DSL staff, RAC members, and interested parties for their participation, reminding members of the next meeting date on July 9. She also expressed appreciation for the engagement and feedback received, reiterated the reminder about office hours, and welcomed members to reach out via email for further inquiries. Finally, she noted that an evaluation would be sent out.