

Appendix B

Water Laws, Policies, and Regulations

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The actions described throughout the Strategy fit within an existing state and federal legal framework. Some water challenges we face in Oregon can be addressed with improved enforcement of existing regulations, modifications to laws or policies, or rulemaking within an agency program.

Both federal and state laws operate within an intricate legal structure, each with its own jurisdiction and authorities. Federal laws enacted by Congress have supremacy and apply uniformly across all states and territories. State governments retain significant authority to legislate and regulate matters not explicitly addressed by federal law. Each type of law—statutes, regulations, and policies—carries distinct levels of authority and serves specific functions within the legal system, with statutes generally holding the highest authority. This section outlines the primary federal and state statutes, regulations, and policies that guide Oregon’s management of water quantity, quality, instream, and out-of-stream needs. This section is organized featuring federal laws first and their associated state-run programs, followed by state laws.

Federal Statutes and Associated Regulations and Policies

The Clean Water Act (CWA) [33 U.S.C. § 1251](#)

The primary regulatory tool used to reduce or prevent pollutants from entering surface waters is the [Federal Clean Water Act \(CWA\)](#), which requires states to establish water quality standards to protect all beneficial uses of water. In Oregon, the Department of Environmental Quality administers the CWA with oversight from the U.S. Environmental Protection Agency. The state establishes [water quality standards](#) to protect defined beneficial uses (e.g., fish and aquatic life, water contact recreation, domestic water supply). The Oregon Department of Environmental Quality is required to review and update standards every three years, as resources allow.

Tribes may apply to the U.S. Environmental Protection Agency for authorization to administer water quality standards under the CWA. This means they may obtain similar authority to the Oregon Department of Environmental Quality.

Assessing, Listing, and Reporting Requirements [Section 303\(d\) & 305\(b\)](#)

Total Maximum Daily Loads (TMDLs)- Requires states to identify waters that are not meeting water quality standards and establish TMDLs for those pollutants impairing water quality. TMDLs specify the maximum numerical amount of a pollutant that a water body can receive while still meeting water quality standards. As part of the 303(d) requirements, each state must assess the quality of water bodies across the state. The state must then determine TMDLs and implementation plans for all waterbodies that do not meet the state’s water quality standards. The Oregon Department of Environmental Quality is responsible for managing, implementing, and enforcing this program. Certain federal, state, and local governments and agencies, including cities, counties, and special districts, may be identified by the Department of Environmental Quality as a Designated

Management Agency, with authority to manage and regulate water pollution listed in a TMDL. Water quality standards can differ in adjacent states, so in cases where TMDLs cross state borders or require bi-state management, the highest standards designated are used in the TMDL.

Water Quality Status and Monitoring Reports– States are mandated to submit biennial reports known as "Water Quality Status and Monitoring Reports" to the U.S. Environmental Protection Agency. The result of these analyses and conclusions is called the "Integrated Report" because it combines the requirements of CWA sections 303(d) and 305(b) into one report. Waters identified as not meeting water quality standards ("303(d) listed") require the development of a TMDL. These reports provide comprehensive information on the condition of waters within the state.

Federal Certification [Section 401](#) – Gives states and authorized Tribes the authority to grant, deny, or waive certification of proposed federal licenses or permits that may discharge polluted waters into Oregon's waters to ensure they meet Oregon's water quality standards. The Department of Environmental Quality may issue a Section 401 water quality certification, along with permit conditions.

Nonpoint Source Pollution Program [Section 1288](#) - - A nonpoint source of pollution is any pollution entering a waterbody, surface, or groundwater source, that does not come directly from a pipe. Nonpoint sources are often linked with agricultural, forestry, urban, and rural residential land use activities where rain or snow runs off to surface waters. As the runoff moves, it picks up and carries away pollutants (e.g., metals, nutrients, sediment) resulting from human activity, finally depositing them into lakes, rivers, wetlands, coastal waters, and groundwater. The Clean Water Act requires that each state develop a plan for controlling pollution from nonpoint sources and improving water quality. The Oregon Department of Environmental Quality is the lead agency in developing the plan. The most recent [Nonpoint Source Management Program Plan](#) was published in 2022.

Also significant in addressing nonpoint source pollution, the [Coastal Zone Act Reauthorization Amendments](#) (CZARA) established the national Coastal Nonpoint Pollution Control Program, mandating states with federally funded coastal management programs to tackle nonpoint source coastal pollution. This program is jointly overseen by the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration. In 2015, Oregon's latest Coastal Nonpoint Pollution Control Program was disapproved by the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration which led to temporary reductions in federal support for grant but will revisit the issue the next time they review the state's program for compliance.

Beaches Environmental Assessment and Coastal Health (BEACH) Act [Section 1311](#) – The BEACH Act amended the Clean Water Act by requiring the U.S. Environmental Protection Agency to develop performance criteria for testing, monitoring, and notifying public users of possible coastal recreation water quality problems. The Act authorizes the U.S. Environmental Protection Agency to award grants to states, territories, Tribes, or local governments to develop and implement beach monitoring and assessment programs.

Point Source Permitting: National Pollutant Discharge Elimination System (NPDES) [Section 1342](#)

The Clean Water Act prohibits anybody from discharging "pollutants" through a "point source" (e.g., pesticide use, industrial or wastewater treatment plant discharge) into a "water of the United States" unless they have a NPDES permit. While a federal program, NPDES permits are issued by the Oregon Department of Environmental Quality. The Department also issues state Water Pollution Control Facility (WPCF) permits to regulate the point source discharge of wastewater onto land. Both types of permits set limits on the amount of pollution that can be discharged and require specific practices and monitoring to safeguard surface waters and groundwater aquifers.

For livestock operations, the Oregon Department of Agriculture is the lead agency responsible for assigning NPDES and WPCF permits for Confined Animal Feeding Operations (CAFOs) to owners so manure does not pollute ground and surface water.

Clean Water State Revolving Fund (CWSRF) [Section 1381](#) – The Clean Water State Revolving Fund (CWSRF) was established by Title VI of the 1987 amendments to the Clean Water Act. The CWSRF program is a partnership between the U.S. Environmental Protection Agency and the Oregon Department of Environmental Quality to provide low-cost financing for a variety of infrastructure projects including municipal wastewater facilities, nonpoint source pollution control, decentralized wastewater treatment systems, stormwater runoff mitigation, green infrastructure, estuary protection, and water reuse.

The Safe Drinking Water Act (SDWA) [42 U.S.C. § 300\(f\)](#)

The 1974 federal [Safe Drinking Water Act](#) (SDWA) mandates the U.S. Environmental Protection Agency to establish and enforce standards that public drinking water systems must follow. These standards encompass a range of programs and requirements such as source water protection, treatment, monitoring, compliance, and public information. These measures aim to ensure that water system operators maintain a safe supply of drinking water for communities. The U.S. Environmental Protection Agency delegates primary enforcement responsibility, known as primacy, to state and Tribal governments.

The Oregon Health Authority administers and enforces drinking water quality and notice standards for public water systems in Oregon. Public water systems are defined as having more than three hookups or serving more than 10 people year-round. Oregon has more than 3,300 public water systems that are fed by more than 200 surface water diversions, nearly 4,000 groundwater wells, and 225 springs. The SDWA regulates over 90 naturally occurring and man-made contaminants. Water quality data for Oregon's public water systems can be found at [Drinking Water Data Online](#).

Oregon Health Authority regulates public water systems serving 10 or more individuals.

Unregulated Contaminant Monitoring Rule [40 C.F.R. 141 Subpart O](#)– "Emerging contaminants" are chemicals found in drinking water that might be harmful to health and are not yet regulated by the federal government. The SDWA mandates the U.S. Environmental Protection Agency to list such contaminants every five years for monitoring by public water systems. The Unregulated Contaminant Monitoring Rule specifies which chemicals need testing and is updated regularly. Data gathered under this rule helps the U.S. Environmental Protection Agency assess the extent of these contaminants nationwide and informs decisions about future regulations.

Reduction of Lead in Drinking Water Act [42 U.S.C. § 300\(g\)- 6](#)- The Reduction of Lead in Drinking Water Act amends the SDWA regarding the use and introduction into commerce of lead pipes, plumbing fittings or fixtures, solder, and flux. The Act defines the percentage of lead allowed in plumbing products and provides for exempt uses where the water is not anticipated to be used for human consumption (e.g., industrial processing, fire hydrants).

In 2017, the Oregon Legislature passed Senate [Bill 1062](#), requiring all school districts, education service districts, and public charter schools to adopt a Healthy and Safe Schools Plan. These plans must include provisions for testing and reducing exposure to elevated levels of lead in water used for drinking or food preparation, as required under guidelines adopted by the Oregon Health Authority. Rules outline that initial testing be done at all drinking and food preparation taps at all schools by 2020, and every 6 years thereafter according to a schedule determined by the Oregon Department of Education. Initial testing is intended to identify problem taps or plumbing, and once resolved, should not have issues in the future. On-going testing is required to determine whether water quality changes or plumbing deterioration has caused more lead to be released.

Endangered Species Act (ESA) [16 U.S.C. § 35](#)

The federal Endangered Species Act (ESA) aims to protect and restore endangered or threatened species and their habitats. “Endangered” means a species faces extinction in its range, while “threatened” means it’s likely to become endangered soon. While there are some exceptions, the ESA is administered by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The former handles land and freshwater species, while the latter oversees marine wildlife and anadromous fish.

The state of Oregon and the federal government maintain separate lists of Threatened and Endangered species. Under state law ([ORS 496.171-496.192](#)) the Fish and Wildlife Commission through the Oregon Department Fish and Wildlife maintains the list of native fish and wildlife species in Oregon that have been determined to be either “threatened” or “endangered” according to criteria set forth by rule ([OAR 635-100-0105](#)). The Department also maintains a list of state sensitive species ([OAR 635-100-0040](#)). The Department leads the development of conservation and recovery plans for state ESA-listed fish and wildlife species. Coordinated action with citizens, and other local, state, and federal agencies is essential for successful implementation. State [plant ESA listings](#) are managed by the Oregon Department of Agriculture.

Oregon Statutes and Associated Regulations and Policies

Water Rights – Oregon’s 1909 Water Code

In Oregon, water is recognized as a public resource ([ORS 537.110](#)). Since the enactment of Oregon’s Water Code in 1909, a structured system for the allocation and management of water has been established statewide. Typically, individuals or entities seeking to utilize water from any source must obtain a permit from the Water Resources Department. Landowners do not inherently possess the right to utilize water flowing past, through, or beneath their property without appropriate state authorization, although certain exemptions from permitting requirements exist.

The allocation and use of water rights are governed by four fundamental provisions. Firstly, water may only be diverted for beneficial purposes without waste, whether from surface or groundwater sources. Secondly, the priority of water rights determines allocation during times of shortage, with older rights taking precedence. Thirdly, water rights are typically tied to the land they serve, known as appurtenancy, meaning they transfer with the land upon sale. Lastly, once established, water rights must be utilized as

specified at least once every five years to remain valid. Failure to do so may result in forfeiture and potential cancellation, except under certain legal exceptions.

Doctrine of Prior Appropriation

Oregon's water laws operate under the principle of prior appropriation, which dictates that the first individual or entity to secure a water right on a stream maintains priority access. In practice, this means, that when senior water rights cannot be fulfilled, junior rights may be restricted. In other words, the first person to obtain a water right on a stream is the last to be shut off in times of shortage. For more details, read [Water Rights in Oregon: An Introduction to Oregon's Water Laws](#).ⁱ

Water Rights Permits and Certificates

The Water Resources Department administers nearly 90,000 water rights, which includes both permits and certificates, for both instream and out-of-stream uses. When the Department evaluates new requests for out-of-stream uses, various factors are considered, such as the needs of existing users, including established instream protections, as well as potential impacts to sensitive, threatened, or endangered fish species, and compliance with existing water quality standards.

Adjudication

Claims to the use of surface water that predate Oregon's Water Code are required to go through a formal administrative judicial process known as an adjudication. This process documents, quantifies, and eventually incorporates their water rights into the prior appropriation system. Similar procedures are conducted for groundwater uses that pre-date the Water Resources Department's authority to issue groundwater rights.

Federal and Tribal reserved water rights, along with pre-1909 claims, are typically determined through adjudication processes. Federal reserved rights are linked to specific federal land allocations that require water, while Tribal reserved rights may stem from treaties, executive orders, or congressional acts, covering uses associated with Tribal lands or resources. These claims are not necessarily older than the water code, as their priority dates are tied to the respective federal actions or, in the case of Tribal water rights, to time immemorial.

The adjudication process is time-consuming, requires significant state resources, and often take decades. The primarily involved agencies include the Water Resources Department, Department of Justice, Office of Administrative Hearings, and many others. Strategy Action 3C addresses the need to continue undertaking adjudications.

Oregon's 1987 Instream Water Right Act [ORS 537.332 through 537.360](#)

Oregon's 1987 Instream Water Right Act was designed to protect instream flows for public benefit by establishing instream water rights. Instream water rights are a legally recognized beneficial use of water. The Department of Fish and Wildlife, Parks and Recreation Department, and Department of Environmental Quality can submit applications to protect water instream. Acceptable reasons for protecting instream flows include the conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat ([OAR 635-400-0000](#)); recreational values and scenic attraction ([OAR 736-060-0000](#)); or pollution abatement ([OAR 340-056-0000](#)). Since 1987, more than 1,000 instream rights have been established through this process and are held in trust on behalf of the public by the Water Resources Department.

In the 1950s, before the Act was passed, Oregon put streamflow protections in place to support aquatic life and protect water quality. The state has converted more than 500 of these older protections, called

“minimum perennial streamflows,” into instream water rights, bringing the total certificated instream water rights to over 1,500.

Oregon law also allows water right holders to sell, lease, or donate water rights to be converted to instream water rights. This is done through a short-term lease agreement or by a formal transfer of the existing right from the current use to a new type of instream use.

Instream rights are usually set for a certain stream reach or at a specific point on the stream and have an established priority date. Many instream rights are junior water rights with the practical effect that they are often not fulfilled during the summer months. Nonetheless, these water rights do establish flow targets essential for safeguarding aquatic life. Strategy Action 2A addresses data needs for establishing instream water rights and Action 11B identifies instream water rights as a tool for instream protections.

The Instream Water Right Act also includes provisions for a local government, watershed council, state agency, or an individual cooperating with one of these entities, to request the Water Resources Commission to reserve unappropriated water for multipurpose storage for future economic development. The Commission undertakes a rulemaking process for any approved requests for a reservation. Water users wishing to access reserved water must submit a water right application to the Water Resources Department, referencing the reservation. The Department then reviews the application based on current, applicable public-interest review standards and applicable basin rules regarding the reservation.

Groundwater

Groundwater Act of 1955 [ORS 537.505 to 537.795 and ORS 537.992](#)

The Groundwater Act of 1955 established the authority for groundwater management and statewide monitoring for the preservation of public welfare, safety, and health. The Act directs the Oregon Water Resources Department and Water Resources Commission to determine rights to the use of public groundwater. Furthermore, it mandates managing groundwater alongside surface water within the prior appropriation system, acknowledging their interconnectedness.

The Groundwater Act also directs the Water Resources Department to determine the extent, capacity, quality, and other characteristics of its groundwater bodies. These metrics are then used to inform resource management decisions. Oregon’s groundwater management policy also provides that rights to use groundwater be protected, reasonably stable groundwater levels be determined and maintained, and groundwater overdraft be prevented.

Groundwater Quality Protection Act [ORS 468B.150-190](#)

The Groundwater Quality Protection Act was adopted in 1989 and aims to prevent contamination, conserve, and restore groundwater resources in Oregon. It mandates all state agency rules and programs align with protecting drinking water resources and public health. The Department of Environmental Quality oversees groundwater quality protection and uses a combination of water quality and land use programs to implement the Act.

Under this law, the Department of Environmental Quality has the authority to designate Groundwater Management Areas when groundwater has elevated contaminant concentrations. The Department has designated three [Groundwater Management Areas](#) because of elevated nitrate concentrations.

Water Rights Management

Administrative Basins [OAR 690-500](#)

The Water Resources Department has organized the state into 20 administrative river basins to allocate water resources. Basin programs are administrative rules which establish water management policies and objectives, and which govern the appropriation and use of the surface and groundwater within each of the administrative basins. The regulations classify surface and groundwater based on permitted uses, preferences among uses, potential for withdrawing water from further appropriation, reservation of water for specified future uses, and establishment of minimum perennial streamflows. These rules supplement statewide regulations that govern the allocation and utilization of water resources.

Water Use Measurement & Reporting

[ORS 537.099](#) requires government entities (e.g., federal and state agencies, cities, counties, schools, irrigation districts and other special districts) to annually report monthly water use data to the Water Resources Department. Certain types of water use are also required to be measured and reported, in accordance with the conditions of a water right or permit. Governments and water right holders in serious water management problem areas have unique reporting requirements, outlined in [OAR 690-085](#).

Distribution and Regulation

Separate and distinct from the Administrative Basins, there are 23 watermaster districts used for water right distribution and regulation. Watermasters at the Water Resources Department are responsible for distributing water in accordance with the doctrine of prior appropriation. Each summer as streamflows drop, watermasters regulate junior users to provide water to the more senior users. By the end of summer, there is typically only enough water to supply users who established their rights in the late 1800s in many areas of the state.

Enforcement

The Water Resources Department enforces the state's water laws and implements the Water Resources Commission's policies in the field. Enforcement staff are responsible for regulating water use based upon the water rights of record.

Conservation

According to Oregon's Water Code, the diversion of surface or groundwater for use is permissible only when it serves a beneficial purpose and avoids wasteful practices. Many municipal and irrigation water suppliers are required to prepare and submit a [Water Management and Conservation Plan](#) (WMCP) to the Water Resources Department as conditions of their water use permits, a final order approving a previous plan, or permit extensions. A WMCP provides a description of the water system, identifies the sources of water, and explains how the water supplier will manage and conserve supplies to meet future needs.

The Allocation of Conserved Water Program recognizes that improved technology and distribution methods may enable water users to use less water than was required in the past. Use of this program is voluntary and provides benefits to both water right holders and instream values. The program allows a water user who conserves water to use a portion of the conserved water on additional lands, lease or sell the water, or dedicate the water to instream use. At a minimum, 25 percent of the conserved water is allocated to the state (for an instream water right) but could be more, depending on funding sources and other agreements.

Transfers and Leases

The use of water under a water right is restricted to the terms and conditions described in the water right certificate: place of use, point of diversion or appropriation, and character of use. The water right holder must file a transfer application with the Water Resources Department to change a point of diversion, point of appropriation, type of use, place of use, or any combination of these. Permanent, temporary, and drought transfers are just a few of the types of transfers that may be applied for by an existing water right holder.

Oregon's instream leasing program ([ORS 537.348](#) and [OAR Chapter 690, Division 77](#)) provides a voluntary means to aid in the restoration and protection of streamflow. This arrangement provides benefits to both water right holders and to instream values by providing water users with options that protect their water rights while leasing for instream benefits. Instream leases can be for up to 5 years and there is no limit on renewals.

Drinking Water

Oregon's Drinking Water Quality Act [ORS 448.119 to 448.285; 454.235; and 454.255](#).

Enacted in 1981, the Act establishes a program for drinking water systems, ensuring safe drinking water for all Oregonians, and offering a mechanism to enhance deficient drinking water systems.

Domestic Well Testing Act [ORS 448.271](#)

The Domestic Well Testing Act requires that wells that supply groundwater for domestic purposes be tested for arsenic, nitrates, total coliform bacteria, and any other contaminants of public health concern that Oregon Health Authority has established in rule, when they are included in any real estate transaction and the seller accepts an offer to purchase or exchange that real estate. Only laboratories accredited according to Oregon Environmental Laboratory Accreditation Program can conduct the sample analysis. The results must be sent to the buyer and to Oregon Health Authority where they are made publicly available in the real estate transaction well report database. This data provides the public and state agencies with critical information on groundwater quality in private domestic wells, statewide. There is no enforcement mechanism with this requirement, and recent studies indicate that only about 10% of the applicable real estate transaction data is being submitted to the state.

Land Use Planning and Agriculture

Statewide Land Use Planning Goals - The Department of Land Conservation and Development implements Oregon's land use planning program, which influences how land is used throughout the state. The program began in 1973 under [Senate Bill 100](#), it directs cities and counties to protect water resources when planning for and permitting development in their jurisdictions. The land use program plays a significant role in managing nonpoint source pollution by promoting compact urban development in designated urban areas and minimizing the impact of rural development on working lands and natural resources through rules and incentives.

Agricultural Water Quality Management Act - The Agricultural Water Quality Management Act enabled the Oregon Department of Agriculture to develop plans and rules to prevent and control water pollution from agricultural activities in order to achieve water quality standards. These rules both advance federal Clean Water Act objectives and serve as the foundation for Oregon's Agricultural Water Quality Program. There are 38 area [Agricultural Water Quality Management Plans](#) and Rules around the state.

Ecosystems and Waterway Protections

Fish Screening & Passage Laws

The Oregon Department of Fish and Wildlife oversees the state's fish screening and fish passage programs. Screens prevent fish from being caught in water diversion structures. Fish passage over man-made dams and diversions has been a requirement since before statehood in locations where native migratory fish are currently or have historically been present. Where applicable, Oregon requires fish screens, bypass devices, and/or passage as a condition of new uses (permits). Only fish screens (not fish passage) are addressed during authorized changes to an existing water right (e.g., transfers).

Forest Practices Act

The Forest Practices Act (FPA) of 1971 sets standards for all commercial activities involving the establishment, management, or commercial harvesting of trees on nonfederal forestlands. Many of the rules are aimed at protecting water sources. For example, regulations require landowners to leave forested buffers and other vegetation along streams, wetlands, and lakes to protect water quality and fish and wildlife habitat. The Oregon Board of Forestry has primary responsibility to interpret the Act and to set rules for forest practices. The FPA statute and rules are the mechanisms to implement water quality standards and Total Maximum Daily Loads (TMDLs) on nonfederal forestlands.

In March 2022 [Senate Bill 1501](#) became effective and requires the Board of Forestry to adopt a comprehensive set of new rules and revisions to the FPA. These changes, along with the aerial herbicide buffers established in 2020 under Senate Bill 1602, are expected to significantly enhance water quality protection on private forestlands. The new rules stem from an agreement reached in October 2021 between timber industry advocates and conservation groups is known as the [Private Forest Accord](#). The Private Forest Accord also resulted in Senate Bill 1502 and House Bill 4055 which became effective in 2022. Senate Bill 1502 provides tax credits for small forestland owners complying with riparian timber harvest restrictions, while House Bill 4055 modifies taxation of forest products and allocates certain tax revenue to mitigate forest practice impacts on aquatic species. The fish-bearing stream rules for large forestland owners went into effect July 1, 2023, with other provisions going into effect January 1, 2024. Currently, the state is writing a Habitat Conservation Plan for the aquatic and riparian species covered by the Private Forest Accord, and the Adaptive Management Program to review and, as needed, update the new forestry rules as operational.

State-owned forests are managed according to forest management plans that are based on geographic area (northwest, southwest, and eastern Oregon). State forests are managed in compliance with and often surpass the standards established by the FPA. The State Forest Program has voluntarily entered a long-term Stewardship Agreement that recognizes a commitment to meet and exceed regulatory requirements that cover forest land in western Oregon and is currently working on a Habitat Conservation Plan for aquatic, riparian, and terrestrial species-at-risk.

Oregon's Removal-Fill Law [ORS 196.795-990](#)

Oregon's Removal-Fill Law requires people who plan to remove or fill material in wetlands or waterways to obtain a removal-fill permit from the Department of State Lands. The law applies to all landowners, whether private individuals or public agencies. The purpose of the law, enacted in 1967, is to ensure protection and the best use of Oregon's water resources for home, commercial, wildlife habitat, public navigation, fishing, and recreational uses. In most cases, a permit is required if an activity involves filling or removing 50 cubic yards or more of material in a wetland or waterway. For activities in state-designated Essential Salmonid Habitat, within a quarter mile of a state-designated scenic waterway, and compensatory mitigation sites, a permit is required for any amount of removal or fill. [ORS 468B.025](#)

prohibits causing pollution or discharging waste to waters of the state and other state permits from the Department of Environmental Quality may be required for in-water activities to ensure the protection of waters of the state is consistent with the Oregon Environmental Protection Act at [ORS 468.149](#).

Specific types of agricultural drainage channel maintenance activities may be eligible for a Notice ([ORS 196.906 – 196.919](#), [OAR 603-095-4000 to 603-095-4060](#)) from the Oregon Department of Agriculture through the Agricultural Drainage Channel Maintenance Program instead of a Removal-Fill Permit from the Oregon Department of State Lands. The Notice provides a streamlined process by which landowners and water districts may, without paying a fee, maintain eligible agricultural channels while ensuring that maintenance protects, maintains, or improves ecological functions of the channels; upholds state objectives for fish recovery; and protects wetlands, waterways, and fish and wildlife habitats.

No-Net Loss Wetland Policy - Although Oregon’s wetland management and protection authorities date back to the early 1970s, legislation passed in 1989 adopted policies maintaining the acreage, functions, and values of the state’s wetlands. Oregon has adopted a goal of *no-net loss* of freshwater wetlands, administered by the Department of State Lands.

Oregon’s Scenic Waterways Act [ORS 390.805-925](#)

Oregon’s Scenic Waterways Act protects over 1,100 river miles. The Act was passed in 1970 to maintain the free-flowing character of designated rivers and lakes in quantities necessary to support recreation, fish, and wildlife. The Act includes criteria for outstanding scenic, fish, wildlife, geological, botanical, historic, archeologic, and outdoor recreation opportunities.

The Scenic Waterways Act prohibits construction of dams or other impoundments within a scenic waterway. It limits new surface water rights within or above scenic waterways as well as groundwater rights where pumping (individually or cumulatively) will reduce surface water flows. Land use activities that can affect a scenic waterway or adjacent land—such as constructing roads or buildings, mining, and forest harvesting—are limited or regulated by this Act. The Oregon Parks and Recreation Department has primary responsibility for implementing the Scenic Waterways Act and consults with several natural resource agencies, including the Water Resources Department. See Action 11B for more information about recent designations.

Outstanding Resource Waters

Outstanding Resource Waters are “high quality waters that constitute an outstanding state resource due to their extraordinary water quality or ecological values, or where special protection is needed to maintain critical habitat areas.” Oregon’s Outstanding Resource Waters policy is part of the state’s antidegradation policy described in [OAR 340-041-0004\(8\)](#). The public can nominate waterbodies for designation and Oregon’s Environmental Quality Commission can designate Outstanding Resource Waters. Designation adds water quality protections, including restrictions on point source discharges, to ensure no degradation of high-quality water, exceptional ecological characteristics, and other outstanding values of the waters occur. See Action 11B for more information about recent designations.

ⁱ Oregon Water Resources Department, 2024. Water Rights in Oregon: An Introduction to Oregon’s Water Laws. Salem, Oregon.
<https://www.oregon.gov/owrd/WRDPublications1/aquabook2023Edit.pdf>