

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Dept. of State Lands, Wetlands and Waterways Conservation Division
Agency and Division

141
Administrative Rules Chapter Number

Removal-Fill Authorizations within Oregon Waters, General Authorizations and Essential Salmon Habitat Designations
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Department of State Lands Administrative Rules 141-085, 141-089 & 141-102

Statutory Authority: ORS 196.600 - 196.692 and 196.800 - 196.990

Other Authority:

Stats. Implemented: ORS 196.600 -196.692 and 196.800-196.990

Need for the Rule(s):

The Division 85 rules have been amended to reflect statutory changes enacted during the 79th Oregon Legislative Assembly—2009 Regular Session (HB 2155 and HB 2156), and to provide increased precision in certain technical areas, such as In-Lieu Fee Mitigation, and acceptable forms of financial security instruments for compensatory mitigation projects. The Division 89 rules have also been amended in part, to reflect statutory changes, but also to make them more succinct and consistent with the format used in the recently revised Division 85 rules. The Division 102 rules have been amended to update the Department of State Lands' Essential Indigenous Anadromous Salmonid Habitat mapped designations based upon newly available, more accurate data from the Oregon Department of Fish and Wildlife on the spawning and rearing habitat of federally listed threatened and endangered runs of indigenous, anadromous salmonids and state listed sensitive runs of these same species.

Documents Relied Upon, and where they are available:

141-085-0500 through 0785, 141-089-0100 through 0615 and 141-102-0000 through 0040 and ORS 196.600–196.692 and 196.800-196.990

Fiscal and Economic Impact:

Fewer authorizations will be required for voluntary habitat restoration projects.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The Department of State Lands anticipates that state agencies, units of local government and the public will continue to comply with the removal-fill law in the same manner as they did before adoption of the new and revised rules. Application fees are required in some cases, applicants may retain professional consultants to prepare applications and related information. Some applicants may incur costs associated with providing compensatory mitigation.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Business and industries subject to the rule include land developers, architecture, engineering and environmental consulting firms, the agricultural industry, energy companies, light industry, commercial office developers, pipeline companies, the recreational industry, and recreational placer miners.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Watershed and conservation groups will not need to apply to DSL to authorize their voluntary restoration projects, in some cases.

Cost of retaining professional services will vary widely depending upon the complexity of the project being proposed. Most consulting firms will charge between \$80- \$120/hour to prepare permit applications and supporting documents. Applicants will need to keep the permit or authorization on file until the project and any required monitoring is completed.

c. Equipment, supplies, labor and increased administration required for compliance:

Compliance is attained upon completion of the project, unless compensatory mitigation and monitoring reports are required. Monitoring requirements related to mitigation may extend up to five years or more. The cost of performance bonds and long-term maintenance and protection plans for mitigation sites vary widely. The current market value of one acre of wetland mitigation credit is approximately \$84,000.

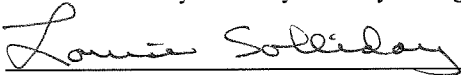
How were small businesses involved in the development of this rule?

Industry representatives from a wide variety of affected businesses were either invited to participate in rule development, or actually participated through public workshops and the Department's Removal-Fill Technical Advisory Committee.

Administrative Rule Advisory Committee consulted?:

If not, why?:

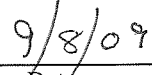
Yes, the Department convenes the Removal-Fill Technical Advisory Committee meetings on a regular basis. The TAC has met monthly or nearly monthly throughout the development of the rules to provide feedback and input to the Department.



Signature

Louise Solliday, DSL Director

Printed name



Date

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