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CHAPTER 141
DEPARTMENT OF STATE LANDS

FILING CAPTION: Additional submission requirement for wetland delineation reports.

EFFECTIVE DATE: 08/05/2024

AGENCY APPROVED DATE: 07/26/2024

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AMEND: 141-090-0035

RULE TITLE: Standards and Requirements for Wetland Delineation Reports Submitted to the Department

NOTICE FILED DATE: 05/16/2024

RULE SUMMARY: This rule is being amended to include HGM subclass. The effective dates for report requirements are now specifically articulated in the rule and align with the current language, which indicates that the effective date is based on the effective date of the rule as filed in 2023.

RULE TEXT:
(1) Report Submittal: All wetland delineation reports ("reports") submitted to the Department for review, approval, and a JD shall meet the technical requirements in OAR 141-090-0030 as well as the minimum standards and requirements in this rule. Reports must conform to the report format provided by the Department.
(2) All wetlands and other waters on the tax lot(s) or study area shall be included; the Department will determine whether or not they are waters of this state, subject to jurisdiction under OAR 141-085, 141-089, 141-093, 141-100, and 141-102.
(3) All report text, maps, remotely sensed imagery, ground photographs, and data forms must be legible.
(4) Reports must be submitted as:
(a) A single, unlocked PDF file with minimum resolution of 300 dpi and searchable text for the text portion of the report; or
(b) Paper hard copies, reproduced in color as applicable, unbound and must copy legibly.
(5) Required GIS data are described in the Delineation GIS Template and Data Description provided by the Department.
(a) Effective June 1, 2025, applicants are required to submit GIS data for Cowardin, HGM, Highest Measured Tide Line, Stream Centerline, Stream Ordinary High Water Line, Study Area Polygon, Tax Lot Polygon, Water Polygon, and Wetland Polygon, as applicable.
(b) Effective June 1, 2028, applicants are required to submit GIS data for all applicable layers in the Delineation GIS Template and Data Description.
(6) All submittals must include a fully completed and signed “Wetland Delineation Report Cover Form” (current form provided by the Department).
(7) Field Methods: The field investigation methods and level of detail required for making and documenting a PJD or JD

and mapping wetlands and other waters of this state will vary by site. At a minimum:
(a) The entire study area whether a tax lot or portion thereof must be investigated during a field investigation.
(b) All wetlands and other waters must be identified, supported by data as appropriate, mapped, described, and classified to Cowardin system and class, HGM class and subclass, and ARSC type, as applicable. Separate polygons are required when more than one adjoining Cowardin class are present within the same wetland and when ARSCs are a portion of a larger wetland.
(c) Sufficient data and additional information shall be collected for any wetlands and other waters to enable the Department to: make a JD; determine location and size of ARSCs within mapped features; and determine if removal-fill permit requirements or exemptions apply.
(d) The wetland delineation must include sample plots that: represent the characteristics of each wetland present; represent each adjacent non-wetland(s); are paired and located close enough to either side of the wetland boundary to accurately substantiate the wetland boundary location; and are sufficient to characterize long or irregular boundaries.
(e) Wetland determination sample plot data must be provided for any portion of the study area where there is significant deviation from wetlands shown on the SWI unless the deviation is due to development that is so significant that it precludes data collection.
(f) At least one sample plot must be placed in all mapped hydric soil units within the study area.
(g) At least one sample plot must be placed in the lowest topographic areas or other locations most likely to contain wetlands.
(8) Study area boundaries, wetland and other water boundaries, and sample plots shall be identified on the ground. For actively managed sites, such as agricultural fields, golf courses, or recreational fields, where it may be impractical to leave the boundary and plot markers on the ground until the JD is issued, their mapped location must be readily relocated in the field by the applicant or consultant during a site visit by the Department.
(9) Because sites are highly variable and JD needs also vary, some situations may warrant deviation from the Field Methods requirements outlined in OAR 141-090-0035(7); for example, large geographic areas, linear projects, mosaics, and difficult wetland sites. In such situations, persons conducting wetland delineations are encouraged to consult with the Department prior to field work regarding appropriate methods.
(10) For farmed sites, field work should be guided by multiple information sources including at least three aerial photos from three different years (early growing season if possible), a detailed topographic survey, and information about site management activities such as irrigation schedules, subsurface drainage systems, and plowing frequency and depth.
(a) Wetland determination and delineation on farmed sites may need to follow procedures outlined in the Difficult Wetland Situations chapter of the appropriate regional supplement to the manual.
(b) On sites where the hydrology indicators may be missing or misleading due to natural or hydrologic manipulation, hydrologic monitoring may be needed to verify the absence or presence of wetland hydrology. When a hydrology monitoring method alternative to the manual standard is being pursued, the proposed method shall be submitted to the Department in writing for prior approval.
(11) Wetland and other water boundaries and sample plot locations must be mapped to the standards described in subsection (a) and (b) of this section.
(a) Except as provided in subsection (b) of this section, the map accuracy standard for wetland and other water boundaries and sample plot locations is within 3.28 feet (one meter) or as otherwise approved by the Department. The accuracy standard is not intended to establish a requirement for authoritative mapping, such as by a professional land surveyor, as described in ORS Chapter 672.
(b) The minimum delineation mapping accuracy standard for voluntary wetland ecosystem restoration projects (see OAR 141-089-0800 through 141-089-0815) that do not include compensatory mitigation activities or payment-in-lieu is 50 feet (14.8 meters).
(c) Mapping procedures may include professional land survey, GPS, measurements made from permanent features identified on a map or from a georeferenced aerial photograph or other remotely sensed imagery included with the report, or approximated when approved by the Department.

(12) Report Text: The report text must include:
(a) A detailed description of the site, its landscape setting, and previous and current land uses.
(b) A description, including the approximate year and extent, of any alterations that likely affected the presence, location or geographic boundaries of any wetlands or other waters on the site (e.g., surface drainage ditches, fill material, grading).
(c) Precipitation for the day(s) of and 2-week period preceding the field investigation(s), observed and percent of normal rainfall for the water year to date, and for the observed rainfall compared to the NRCS WETS table 30% and 70% chance exceedance values for each of the three months preceding the field investigation. An acceptable replacement for the NRCS WETS table is the Antecedent Precipitation Tool output (Environmental Protection Agency, USACE).
(d) The date(s) of the field investigation and site-specific methods used to conduct the field investigation, define study area boundaries, select sample plot locations, determine boundaries of wetlands and other waters, interpolate boundaries between paired plots, and make PJDs.
(e) A description of all wetland and other water polygons identified, including but not limited to:
(A) Area, in acres, for wetlands, ponds, reservoirs, and lakes; length and width, in feet, of streams, ditches, and reservoirs;
(B) Whether they extend off-site;
(C) Cowardin classification to the system and class level (describe if more than one adjoining class occur within the same wetland);
(D) Dominant HGM class and subclass;
(E) Stream flow duration of other waters;
(F) Type, size, and location of ARSCs that constitute a portion or all of a mapped feature;
(G) Whether it is a State-approved compensatory mitigation, if known.
(f) Deviation from the SWI, supported by wetland determination data or explanation of development in area mapped previously as wetlands or other waters.
(g) An explanation of how the location of the study area or tax lot boundaries, sample plot locations, wetlands, and other waters depicted on the delineation map(s) were mapped. Explanation must be provided for each method used for mapping and to which features each method applies.
(h) Additional information and rationale for all PJDs sufficient to demonstrate jurisdiction based on OAR 141-085-0515 criteria. This information can include, but is not limited to:
(A) Documentation of fish presence or absence in a stream or ditch, using published maps or reports or information from an authoritative source (e.g., Oregon Fish Habitat Distribution and Barrier Data Viewer, Oregon Department of Fish and Wildlife field staff);
(B) Information sufficient to determine whether an identified water feature is artificially created entirely from upland and the purpose for which it was created;
(C) Information about the water feature's wetland status, size, average water depth at ordinary high water line, topographic and geomorphological location, mapped soil series and hydric status, and evidence of drainage (e.g., drain tiles, ditching);
(D) Hydrology monitoring data;
(E) Historical imagery;
(F) Data or other information on pre-disturbance conditions, such as excavation to an original (formed in situ) soil surface or identification of a former stream course;
(G) A detailed topographic survey;
(H) Data collected at a certain time of year;
(I) Additional plant species identification; or
(J) Documentation from a removal-fill permit including permit number.
(i) Results and conclusions of the investigation, including a table summarizing details in (12)(e) and (h).
(j) The following disclaimer: "This report documents the investigation, best professional judgment and conclusions of

the investigator. It is correct and complete to the best of my knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055."

(k) Appendices, as needed.

(13) Report Figures and Maps: All reports shall include the figures and maps listed in (13)(a) through (13)(g). All maps must include an outline of the study area boundary, a north arrow, a scale bar, and legend of all map elements. Any inset maps must include a scale bar.

(a) A location map, clearly naming geographical places, waterways, and major roads in the vicinity.

(b) Assessors tax lot map(s) for the entire study area, either downloaded as PDFs from the Oregon Department of Revenue's "ORMAP" website or from a County Tax Assessor's Office GIS data. Maps produced from GIS data must label each tax lot with the Assessors tax map number and tax lot number.

(c) The appropriate wetland mapping from the SWI (approved delineations, LWI, NWI).

(d) The NRCS county soil survey map, including the map unit symbol, name, and hydric status for all soil series mapped within the study area.

(e) At least one recent aerial photograph, preferably taken early in the growing season or during other periods of peak hydrology, that includes the month and year of the photo (include at least three aerial photos from three different years for farmed sites).

(f) One or more delineation maps comprising the wetland and other waters determination or delineation, as appropriate, that meets the requirements in sections (14) through (16) of this rule.

(g) Ground-level color photographs of the site.

(14) The delineation map(s) must be legible and include:

(a) The boundaries of the tax lot(s) including tax map and tax lot label(s).

(b) The study area boundary in relation to the tax lot boundaries. For large tax lots with small study areas, a map in addition to the delineation map may be required to show the relationship between the study area and tax lot boundaries.

(c) An index map if a large project study area needs to be divided into more than one detail map for clarity or map scale issues. Full-page index map(s) shall show the exact location and extent of the areas shown on the detail maps in relationship to the larger study area.

(d) Locations of existing structures (unless clearly visible on a current aerial photo included as the map's base map), such as culverts, bridges, tidegates, fencelines, powerlines, and roads, where practicable.

(e) Locations of fill, removals, water diversions, or other major alterations.

(f) Boundaries and labeling for mapped features, including:

(A) Boundaries of all wetlands and other waters;

(B) Where features extend off-site;

(C) Area, in acres, for wetlands, ponds, reservoirs, and lakes; length and width, in feet, of streams ditches, and reservoirs;

(D) Cowardin classification to system and class (map separately when more than one adjoining class is present within the same wetland) and HGM class and subclass;

(E) ARSC boundaries; and

(F) State-approved compensatory mitigation site boundaries, if known.

(g) Numbered sample plots corresponding to data forms (see section (16) of this rule).

(h) Photograph locations and direction of view.

(i) A statement of all mapping methods used and estimated mapping accuracy for the wetland and other waters boundaries and sample plot locations. Include statement of sources of remotely sensed imagery, topography, and tax lot data provided.

(15) The delineation map(s) shall be at a scale suitable for the study area size and for legibility. For most purposes, an appropriate map scale is 1 inch = 100 feet. For large study areas, a scale of 1 inch = 250 feet may be sufficient. Minimum

map scale for a JD and for permitting purposes is subject to Department approval.
(16) Data Form Requirements: All reports shall include a wetland determination data form for each sample plot. The data form used must be the current version provided for the appropriate regional supplement to the manual. All wetland determination data forms must:
(a) Be fully completed;
(b) Include only data collected from a single sample plot on a single date (additional dates of hydrology data may be reported in the comments section or provided in a table) and for a single location (identifying latitude and longitude on data form);
(c) Include the full Latin botanical name and wetland indicator status of all plant species listed per the current National Wetland Plant List;
(d) Use standard soils terminology and abbreviations as established by the U.S. Department of Agriculture, Natural Resources Conservation Service; and
(e) Provide remarks for each disturbed or problematic wetland parameter per procedures outlined in the Difficult Wetland Situations Chapter of the appropriate regional supplement to the manual.

STATUTORY/OTHER AUTHORITY: ORS 196.845, 196.692

STATUTES/OTHER IMPLEMENTED: 196.800 – 196.990, 196.600 – 196.665, 196.668 – 96.692, 197.279