



# Rulemaking Advisory Committee

Proposed Fees for Wetland  
Determinations/Delineations

August 14, 2024

# Meeting Agenda

Scappoose Bay / Photo: Lexi Richins

9:00 AM	Introductions
9:05 AM	Agenda
9:10 AM	Division 90 Background; Tiers; Data Methodology
9:45 AM	Discussion— Division 90 Proposed Tiers and Fees; Draft Rule
10:15 AM	Discussion—Fiscal Impact Statement
10:30 AM	Discussion—Racial Equity Statement
10:45 AM	Interested Party Comments
10:55 AM	Next Steps
11:00 AM	<i>Meeting ends</i>

# Zoom Protocols



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

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

# Meeting Purpose



Review and discuss the following for  
**OAR 141-090-0032, Fees for On-Site Wetland  
Determinations and Wetland Delineation  
Report Reviews:**

- Tiered Fee Structure for Wetland Delineation Reports
- Proposed Cost Recovery Fees for both services
- Annual Fee Increase Percentage
- Proposed Rule Language
- Fiscal Impact Statement Worksheet
- Racial Equity Statement Worksheet

# Background



# Wetland Determination



OAR 141-090-0020

(11) "Determination" means a decision that a site may, does, is unlikely to, or does not contain waters of this state. A determination does not include the exact location or boundaries of waters of this state.

(29) "On-site Determination" means a determination by the Department or any other person that includes a site visit to collect relevant data. An on-site determination by the Department may be either a preliminary jurisdictional determination or a jurisdictional determination.

# Wetland Determination Process



Process steps for Off-site and On-site Wetland Determination Requests:

1. Staff or Support Services (SS) receive the wetland determination request and SS creates a file number and logs it into the Land Administration System (LAS) database. Wetland Ecologist (WE) notified. Staff also submit these request to research enforcement cases.
2. WEs research the site in LAS to see if there are any related files.
3. WEs review site on Google Earth including a review of historic aerials.

# Wetland Determination Process



4. WEs create a project in ArcGIS and reviews supporting GIS layers including: soils, National Hydrography Dataset (NHD) stream mapping, National and State Wetlands Inventories (NWI and SWI), LiDAR, LAS DSL File locations, FEMA flood maps, and other layers as needed. WEs create a map for any layer used to support their determination including a site location map. All maps are saved to LAS.
5. WEs use the findings to complete an Off-site Wetland Determination Report form.



# Wetland Determination Process



6. If off-site only, report and site location map are shared with applicant and other interested parties.
7. If an on-site visit is needed WEs will schedule the visit with the property owner. On-site, WEs will collect wetland sample plot data for plants, soils, and hydrology and use this this data to make their determination whether wetlands or waters are present or absent. Again, this information is compiled on a report form. The form is called the On-site Wetland Determination Report.
8. The results for both report types are saved in LAS.

# Wetland Delineation Report



OAR 141-090-0020

(45) "Wetland Delineation Report" means a written document that contains the methods, data, conclusions, and maps used to determine if wetlands and other waters of this state are present within a study area and, if so, describes and maps their locations and geographic extent. A wetland determination report documenting the presence or absence of waters of this state is included within this definition.

*A delineation report is needed to obtain a removal-fill permit.*

# Wetland Delineation Report Review



Process steps for reviewing a wetland delineation report:

1. Delineation report and the delineation review fee is received by SS and the report is logged into LAS. SS then notifies the WE that they have a report to review.
2. WEs have 120 days to complete their initial review of the report once the review fee is paid.
3. WEs complete the same offsite review steps used in the wetland determination process described above but instead of creating their own maps they use those created by the consultant. WE's review all the report's information including the narrative and any supporting information (maps, aerials or data forms).

# Wetland Delineation Report Review



4. If the WEs have questions after their review, they reach out the consultant that prepared the report and request additional information or schedule a site visit.
5. Once WEs are satisfied with the report's findings, they create an agency decision packet to document the report's approval. The draft agency decision is then shared with the Aquatic Resource Specialist for final approval. Once approved the agency's decision is shared with the applicant and other interested parties. The approved agency decision is valid for five years.

# Current Fees as of January 1, 2024



## Wetland Determinations\*:

Off- and On-Site:	No cost
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## Wetland Delineation Report Reviews\*:

Initial Fee:	\$559
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Resubmittal Fee:	\$100
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Reissuance Fee:	No cost
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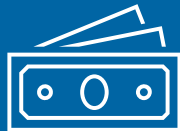
*\*The Department researched states included in the National Association of Trust Lands (NASTL) and could not find comparable programs.*

# Number of Determinations and Delineations



Year	Total Determinations	On-Site Determinations	Wetland Delineation Reports
2019	330	16	304
2020	365	20	320
2021	311	20	373
2022	285	21	383
2023	225	13	337
<b>Avg</b>	<b>303</b>	<b>18</b>	<b>343</b>

# Revenues and Expenditures



Year	Revenues	Expenditures
2019	\$137,081	\$634,079
2020	\$136,273	\$794,973
2021	\$151,544	\$804,731
2022	\$170,100	\$744,545
2023	\$186,680	\$634,511
<b>Avg</b>	<b>\$156,366</b>	<b>\$722,568</b>

# Creation of Tiers



*Field of Camas at Butler Mitigation Bank / Photo: Grey Wolf*



# Tier 1



**Delineation report reviews with 0.20 or less wetlands acres.**

The 0.20 acres or less size was chosen because it is already used as a key eligibility criteria for removal-fill permitting.

Average time spent on Tier 1 reports is 5.5 hours.

Approximately 43% of reports fall into Tier 1.

## Tier 2



**Delineation report reviews with 0.21 or greater wetlands acres.**

The 0.21 acres or greater value was chosen because of its relationship to removal-fill permitting eligibility criteria.

Average time spent on Tier 2 reports is 8.6 hours.

Approximately 53% of reports fall into Tier 2.

## Tier 3



**Delineation report reviews with 0.21 or greater wetlands acres, and the study area is in a west side county and the study area is greater than a 100 acres, or the study area is in an east side county and the study area is greater than 200 acres.**

The study area question was designed to capture those large projects that consume lots of staff time to review. Projects in this tier are typically for power or utility lines, solar arrays or wind farms, etc. The distinction between west and east side counties was made because typically the west side has wetter conditions, and therefore, more wetland and waterway boundaries to review and approve.

# Tier 3



Average time spent on Tier 3 reports is 23.3 hours.

Approximately 4% of reports fall into Tier 3.

# Data Methodology



# Staff Time Tracking



- From 2021-2023, staff self tracked how their time was spent reviewing wetland delineation reports.
- Key data collected and used in determining time spent per tier level review:
  - Size of study area
  - Size of wetland area
  - Amount of time in hours to complete review

# Delineation Data



- Data from the Staff Time Tracking and Land Administration System were used to identify the average number of reports per tier.
- Average number of reports was used to determine percentage of wetland delineation reports in each tier.
- Percentage was applied to the five-year average of reports received.
  - Tier 1: 148 reports per year
  - Tier 2: 182 reports per year
  - Tier 3: 14 reports per year

# Determination Data



- Data from the Land Administration System were used to identify the average number of determinations per year and the number of on-site determinations per year.
- On-site determinations: 18 per year



# Staff Data



- The staff involved in a delineation report review (e.g., support services, wetland ecologists) were identified.
- The percentage of time per hour spent on a report was determined (e.g., an assigned support services employee would spend an average of 23 minutes processing a report).
- Percentage of time was multiplied by total staff costs (i.e., salary and benefits) per hour of work.

# Determination of Fees



# On-Site Determinations



- Estimated and average of 100 miles round trip and 3 hours of staff time per site visit.
- Multiplied mileage by state reimbursement rate.
- Multiplied staff time by hourly staff salary for wetland ecologist.
- Added the mileage plus staff cost to estimate the cost of a site visit.

# Delineation Tier Fees



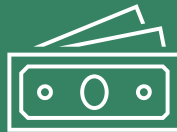
- The average hourly cost of each staff position associated with each tier was calculated to determine the staff salary cost per report review, which provided a base staff cost recovery for each tier.
- Determined approximate fees based on the results of hourly staff costs, the complexity of each tier, and the total program cost recovery percentages, beginning at 50%.

# Goals



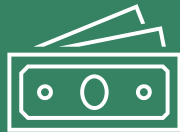
- Keep off-site determinations free and on-site determinations at a low cost because these are an important entry point to educate the public about wetlands and the Removal-Fill program requirements.
- Encourage wetland delineations by having the fees for reports bear less of the removal-fill program costs than permits.

# Proposed Fees



Application Type	50%	70%	85%	100%
Tier 1	\$600	\$850	\$1,100	\$1,350
Tier 2	\$1,200	\$1,450	\$1,700	\$1,950
Tier 3	\$3,500	\$4,000	\$4,500	\$5,000
On-site	\$450	\$500	\$550	\$600
Reissuance Fee	\$600	\$850	\$1,100	\$1,350

# Estimated Revenues



Cost Recovery Percentage	Estimated Revenue
50%	\$370,300
70%	\$463,200
85%	\$556,100
100%	\$635,500

*The estimated revenue is based on the proposed fees for Division 90 and contributes to the overall program cost recovery.*

# Proposed Rule Language







Draft rule language includes placeholders for fees. The purpose of this is two-fold:

- The Department is asking the RAC for a recommendation for which cost recovery proposal to use as the initial fees.
- The Department is proposing an annual fee increase of 5% in order to keep up with economic growth. The average annual CPI rate for the past 5 years is 4.26%.

# Discussion of Tiers, Fees, and Rule Language



# Fiscal Impact and Racial Equity Statements





The Notice of Proposed Rulemaking requires agencies to provide a Fiscal Impact Statement and a Racial Equity Statement.

- The **Fiscal Impact Statement** is intended to identify the fiscal impact of the proposed rules on affected parties, including government agencies and small businesses.
- The **Racial Equity Statement** is intended to identify the affect of the proposed rules to racial equity within the state of Oregon.

Today's discussion will provide input on the drafting of these two statements.

*Discussion about a Housing Impact Statement will take place at a future meeting.*



## Interested Party Comments

Please raise your hand  
to speak.

Please keep comments  
limited to 3 minutes  
and on topic with  
today's discussion.



# Interested Party Comments



Use the "Raise Hand" feature to provide community input. Time is limited and we may not be able to hear from all of you today.

- To raise your hand, click the reactions near the bottom of your screen and click "raise hand" or by pressing star 9 if you are on the phone.
- You will be called in the order in which hands are raised.
- Please keep your mic muted unless it is your turn to speak.

## When it's your turn to speak:

- When your turn is coming up, the moderator will call on you to begin speaking.
- Please say your name, where you're from, and any organization you're representing.
- Please keep your remarks to **three minutes** and be respectful of each other and agency representatives. We will help track your time.

## What's Next?

- Following this meeting any revisions to the draft rule language and proposed tiered fee structures and fees will be sent to the RAC members.
- In the next week, a meeting summary will be sent to RAC members and today's meeting recording will be posted.
- Prior to the next meeting (General Authorizations) an agenda will be sent to the RAC.
- All meeting materials will be posted to DSL's Rulemaking website: [www.oregon.gov/dsl/Pages/rulemaking.aspx](http://www.oregon.gov/dsl/Pages/rulemaking.aspx)



# Thank You!

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