



OREGON

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
2,262,000	1,393,900	868,100	-38%

Oregon Wetlands: Palustrine, lacustrine, and estuarine wetlands constitute most of the State’s wetland acreage. The area of marine and riverine wetlands is small relative to that in the other systems. Estuarine wetlands in Oregon consist mainly of tideflats, eelgrass beds, and salt marshes. Coastal nontidal fresh marshes, swamps, bogs, and ponds are palustrine wetlands that have formed around and in lakes and wind-scoured depressions among sand dunes.

Summary	Individual Features	Regulation	Water Quality Standards	Mitigation	Monitoring and Assessment	Restoration	Public/Private Partnerships
-------------------------	-------------------------------------	----------------------------	---	----------------------------	---	-----------------------------	---

SUMMARY

Overall Program

Oregon’s wetland program is a network of programs administered by various state agencies. The state has a comprehensive program regulating fill and removal in both tidal and nontidal, freshwater wetlands that is implemented by the Department of State Lands (DSL). This regulatory program is closely coordinated with the Statewide Land Use Planning Program. The 401 water quality certification program is administered by the Department of Environmental Quality. Wetland restoration and acquisition programs are administered primarily by the Oregon Watershed Enhancement Board (OWEB). The Oregon Department of Fish and Wildlife (ODFW) and the Parks and Recreation Department also have a role in restoration and/or acquisition. The Oregon Department of Forestry (ODF) administers the Forest Practices Act, which includes best management practices for “significant wetlands.”

Innovative Features and New Programs/Initiatives

A 1989 state law established a local-state coordination process that requires cities and counties to notify DSL when they receive an application for an activity that may affect wetlands mapped on the National Wetlands Inventory (NWI) or a Local Wetlands Inventory (LWI).

An expedited, no-fee permit (general authorization) is available for wetland or stream restoration and enhancement projects.

Oregon has established the OWEB to fund restoration and acquisition of watersheds to assist in the recovery of salmon and other aquatic species.

State Wetland Conservation Plan

Oregon's Wetland Conservation Strategy was adopted in 1995. A follow-up plan drawn from the strategy—*Recommendations for a Nonregulatory Wetland Restoration Program for Oregon*—was published in 1998.

No Net Loss/Net Gain Goal

A statutory requirement exists to “Maintain a stable resource base of wetlands . . .” and “Establish the opportunity to increase wetland resources by encouraging wetland restoration. . .” In addition, the Oregon Benchmark Program (statutory targets and performance measures) sets a “no net loss of freshwater wetlands” and “net gain of 250 acres/year of estuarine wetlands” target.

INDIVIDUAL FEATURES:

Regulation

Wetland Regulatory Statutes and Administrative Rules

Removal-Fill Law. Oregon Revised Statute “ORS” 196.800-196.990. Permit from DSL is required for filling or removal of material in waters of the state, including tidal and nontidal wetlands. Oregon Administrative Rules: OAR 141-085-0005 through 0615.
<http://www.oregonstatelands.us/r-fintro.htm>

Wetlands Act. ORS 196.668-196.692. Established no net loss policy, mitigation sequencing, Wetland Conservation Plans (WCP), Statewide Wetlands Inventory authority, and public information program. Administrative Rules for WCPs include OAR 141-86-005 through 060; 141-120-000 through 230. Administrative Rules for Statewide Wetlands Inventory include OAR 141-086-0180 through 0240.
<http://www.oregonstatelands.us/wetlandsintro.htm>

Oregon Mitigation Bank Act of 1987. ORS 196.600-196.665. Establishes criteria and procedures for public and private mitigation banks. Estuarine Mitigation Bank Rules: OAR 141-085-0263. Freshwater Wetland Mitigation Bank Rules: OAR 141-085-0400 through 0450.

Comprehensive Land Use Planning Act. ORS sec. 197.005-197.640. Local governments must adopt planning and regulatory programs consistent with statewide planning goals. Goal 5 requires that local governments inventory, assess and provide some protection for significant freshwater wetlands. Goal 16 requires that local governments classify estuaries and divide each estuary into management units. Major tracts (99.6%) of salt marshes, tide flats, seagrasses and algae beds are classified and managed as “natural” units.

Wetland Definition and/or Delineation; Comparability With Federal Definition

The wetland definition is identical to the federal definition (ORS 196.800(16)). As of 2003, there is a statutory requirement to use the U.S. Army Corps of Engineers “Corps” 1987 Wetland Delineation Manual. Administrative rules adopted by DSL also govern wetland determination and delineation procedures, standards and reports submitted by third parties (OAR 141-090-0005 through 0055).

Evaluation Methodology

Any evaluation methodology may be used to evaluate wetlands for state permit purposes. Administrative rules (OAR 141-085-0115 through 0125) address requirements for evaluating the function and condition of wetlands to be altered and of proposed mitigation sites if the mitigation site already meets wetland criteria. The rules establish a preference for use of Hydrogeomorphic (HGM). Oregon has developed a

statewide HGM classification, a HGM guidebook for the Willamette Valley, and a tidal wetland HGM guidebook (completion fall 2004).

For wetland planning and protection by local governments (under Goal 5 of the statewide land use planning program), the *Oregon Freshwater Wetland Assessment Methodology* (1993; revised 1996) is required for assessing the relative function and condition of wetlands within the planning area.

Regulated and Exempted Activities

Regulated activities include most removal/excavation of material (50 cubic yards or the equivalent weight in tons of materials in any calendar year); or fill of material (50 cubic yards or more at one location). Any amount of fill or removal in essential salmon habitat streams or state scenic waterways requires a permit.

Exempt activities include normal farming and ranching on “converted wetlands;” maintenance or reconstruction of structures such as ditches, dikes, tidegates, and culverts; maintenance and emergency reconstruction of transportation structures.

Special Provisions for Agriculture and Forestry

Agricultural exemptions are similar to federal exemptions. Normal farming and ranching activities and minor drainage are exempt on “converted wetlands,” which are defined in state law. Additional exemptions (such as farm road maintenance and draining stock ponds) are allowed on lands zoned as Exclusive Farm Use, and most farm uses are exempt on certified Prior Converted Cropland (that still meets wetland criteria).

Forest practices in and around wetlands on private lands are regulated under the Forest Practices Act by the ODF. The ODF developed rules for protection and best management practices in “significant wetlands.”

Penalties and Enforcement

DSL has authority to take civil, criminal or administrative actions to enforce the Removal-Fill Law. Remedies may include consent orders or agreements, cease and desist orders, restoration orders, civil penalties (not to exceed \$10,000 per day) and liens.

Permit Tracking

The DSL database (Land Administration System) tracks permit types and processing status, compensatory mitigation, wetland determination and delineation reports, and violations.

State General Permit (PGP or SPGP) for 404

A SPGP is in development; target implementation for Fall 2004.

Assumption of Section 404 Powers

Oregon has passed legislation that allows and positions the state to assume Section 404 permitting. Work on assumption has been ongoing for several years. Major hurdles include how to address consultation for listed fish species. The legislation will need to be passed a second time prior to assuming Section 404.

Joint Permitting

The DSL and Corps have a Joint Permit Application and some coordinated procedures.

Special Area Management Plans and Advanced Identification Plans

The state has specific statutory authority for Wetland Conservation Plans that are developed by a local government according to state regulations and oversight.

One WCP has been adopted and is operating successfully—the West Eugene Wetlands Plan.
<http://www.ci.eugene.or.us/wewetlands/>

Role of Local Governments

Local governments have no direct role in the state permit program, unless they develop and adopt a WCP as described above. Under an approved WCP, the state will issue permits according to the approved plan, or the state may grant permitting authority to the local government.

Local governments do have responsibilities under the statewide planning program as noted under regulations, above. All local governments are required to adopt the NWI (or develop a LWI that meets standards adopted in rule by DSL) and notify DSL of applications they receive that may affect a mapped wetland. Coastal cities and counties have all adopted estuary management plans. Many cities have adopted a “Goal 5” protection program for significant wetlands.

Staffing

18 permit, compliance, and wetland program staff and 6 support staff.

Water Quality Standards

Wetlands and Water Quality Standards

Wetlands are defined and protected as “waters of the state” (ORS 468.005(8); OAR 340-41).

Wetland Definition

The definition is the same as the federal definition and the same as defined under regulation, above.

Designated Uses

All that apply to “waters of the state.” Designated Beneficial Use is defined in OAR 340-041-0006(34).

Narrative and/or Numeric Criteria

All criteria that apply to waters of the state also apply to wetlands, and are listed as basin-specific figures (OAR 340-041-0205 through 0962).

Antidegradation Policy

Antidegradation Policy for Surface Waters (OAR 340-041-0004).

Other

TMDLs

Staffing

3 positions, including 1 limited duration position to handle the Oregon Bridge Delivery Program (replace numerous state highway bridges).

Mitigation

Mitigation Policy

The sequenced definition of mitigation (in statute) is the same as the federal definition, and compensatory mitigation to “replace the functional attributes” of the impacted wetland is required for all permitted wetland fills. Compensatory mitigation for freshwater wetland impacts also must meet a minimum ratio requirement; the ratio is based upon type of mitigation (e.g., restoration, enhancement or creation). Estuarine resource replacement is also required by statute.

Mitigation Banks

The Mitigation Bank Act was enacted in 1987. Administrative rules set requirements for both estuarine and freshwater mitigation banks. As of summer 2004, there are 10 approved banks in Oregon. Two are public—the oldest is the Astoria mitigation bank (estuarine); the second is a bank program (several sites) that is operated by the City of Eugene as part of the West Eugene Wetlands Plan. The remaining banks are private. A mitigation banking guidebook for Oregon was published in 2000.

http://www.oregonstatelands.us/mitbank_guidebk.pdf

In Lieu Fee Program

Compensatory mitigation for freshwater wetland impacts may, in some circumstances, be conducted through an in lieu program referred to as “payment to provide mitigation.” The program is administered by DSL. If onsite compensatory mitigation is impracticable, an applicant may purchase credits from an approved wetland mitigation bank with the appropriate type of wetland credits. If no bank credits are available, payment to provide mitigation is an option. Legislation passed in 2003 requires the fee to be based upon the average cost of credits available from all active mitigation banks in the state, calculated annually. Administrative rules outline DSL’s responsibilities for the program (OAR 141-085-0156 & 0161).

Ad Hoc Arrangements

None indicated.

Mitigation Database

DSL’s Land Administration System tracks wetland losses and gains; however, it is difficult to track gains from the payment-to-provide mitigation option because funds are often mingled with other program funds in cooperative wetland restoration or enhancement efforts.

Staffing

1 full time mitigation specialist. Permit staff also work with mitigation.

Monitoring and Assessment

Mapping/Inventory

Statute authorizes the DSL to compile and maintain a “statewide wetlands inventory” based upon the NWI. The NWI has been completed for the state and about one-fifth has been digitized. DSL is the state distribution center for NWI maps. DSL provided applicable NWI maps to local (city and county) planning offices to use for Wetland Land Use Notification (described above) and other purposes.

DSL adopted rules for detailed, parcel-based LWIs that are conducted within the urban growth boundaries of cities. Approximately 60 cities have developed and adopted LWIs that have been approved by DSL. Wetlands on LWIs are classified by both Cowardin and HGM, and LWI rules also require that the wetlands be described (plant communities, etc.) and assessed using the *Oregon Freshwater Wetland Assessment Methodology*.

Oregon completed a status and trends study for the Willamette Valley (the most populated region and also a major agricultural region). This was a sample-based study, with wetland and land use change mapping conducted by NWI staff. Results are reported in “*Wetland and Land Use Change in the Willamette Valley, Oregon: 1982 to 1994* (1998) and were published in *Wetlands*. There was a net loss of 6,877 acres of wetland to upland land cover types during the period, an average annual net loss of 546 acres. The primary cause of wetland loss (64%) was attributable to conversion to upland agriculture. http://www.oregonstatelands.us/wetland_will_valley.pdf

A follow-up study on the regulatory implications of the changes was conducted by DSL (a look at whether or not changes that required a permit, had a permit). DSL has been awarded a grant from the U.S. Environmental Protection Agency (EPA) to update the status and trends study to 2004. EPA and OWEB also funded a status and trends study for the coastal lowlands; completion scheduled for Summer 2005.

Wetland Classification and Assessment

An Oregon Hydrogeomorphic Classification and functional profiles has been developed, and a HGM guidebook for two subclasses in the Willamette Valley has been completed. Data was collected from 109 reference wetlands to develop the models for the guidebook. A tidal HGM guidebook is under development. The guidebook is used for wetland fill permitting and compensatory mitigation. There is no systematic program for assessing wetland quality.

Overall Wetland Gain and Loss Tracking System

DSL compiles data from the agency’s permit database and the OWEB restoration database to report on wetland gains and losses. The information is reported by DSL as an agency performance measure, and is also reported to the Oregon Benchmark Program to determine if the “not net loss” of freshwater wetlands and “net gain” of estuarine wetlands (250 acres/year) targets are being met. The wetland status and trends studies described above provide another means of tracking wetland change that is not tied to agency programs.

Staffing

Estimate 1 full time employee dedicated to inventory, monitoring and assessment.

Restoration

Program Description

Although several agencies have a role in wetland restoration, the primary state agency is the OWEB. OWEB administers approximately \$20 million/year through a grant program to enhance watershed functions. The program has a focus on improving watershed processes and wetland restoration is an important element of the program. OWEB as a funding agency works with locally organized watershed councils and soil and water conservation districts as well as non-profits or individual landowners. Grant applications are reviewed twice a year and awarded on a competitive basis. Additionally, OWEB participates with USDA in the Conservation Reserve Enhancement program which pays landowners to restore riparian forested buffers and wetlands in agricultural lands.

Restoration Program Goals

None established by OWEB. The State of Oregon (Benchmark Program) <http://egov.oregon.gov/DAS/OPB/> and DSL have established a net gain goal of 250 acres/year of tidal wetland and restoration is a crucial component of the no net loss of freshwater wetlands goal. DSL is responsible for reporting on the benchmark.

Eligibility Criteria

Limited to private Lands.

Restoration Database

Oregon Watershed Restoration Inventory Database has data on all projects funded by OWEB and is summarized every other year.

Staffing

The grant program has 5 field staff, a program manager and 3 fiscal staff.

Public/Private Partnerships

Acquisition Program

OWEB can apply funds for the protection of wetland resources through acquisition.

Public Outreach/Education

Each agency with wetland program responsibilities provides some public outreach and education. However, there is no coordinated effort. DSL produces a newsletter, maintains a web site, publishes fact sheets and special publications, and hosts meetings with specific target audiences several times a year. OWEB has generated numerous publications and a Watershed Assessment Manual, works closely with locally organized watershed councils throughout the state, and holds a major conference every other year.

Tax Incentives

The ODFW implements a riparian area tax incentive program.
http://www.dfw.state.or.us/ODFWhtml/InfoCntrHbt/riptax_facts.htm

Technical Assistance

DSL staff provide free wetland determinations and assist cities, public agencies or citizens with evaluating options for avoiding or minimizing wetland impacts. The ODFW provides technical assistance to landowners interested in habitat restoration and management. OWEB funds technical assistance for soil and water conservation districts and watershed councils.

Other Nonregulatory Incentives for Private Landowners

None indicated.

Wetland Training and Education

DSL's wetland staff: 1) conduct wetland identification workshops, 2) train city and county planning and permit staff how to use wetland maps, 3) provide training in using the Oregon HGM guidebook, 4) and offer similar program-specific education as the need and opportunity arises. DSL's permit staff provide training in developing good permit applications and mitigation plans.

Watershed Planning

OWEB has developed guidance and funded watershed assessment work throughout the state. The Watershed Assessment manual is located at:

http://www.oweb.state.or.us/publications/wa_manual99.shtml

Special Problems

Insufficient funding is a persistent problem. Coordination between the various state resource agencies is challenging. Concerns by some about restoring wetland on agricultural land inhibits some restoration funding and work.

Coordination

This is not an umbrella agency or interagency committee tasked with coordinating wetland activities.

Contact Person(s):

Janet C. Morlan
Wetlands Program Manager
Oregon Department of State Lands
775 Summer Street, NE, Suite 100
Salem, OR 97301-1279
(503) 378-3805, Ext. 236
janet.morlan@state.or.us

For Water Quality Section:

Tom Melville
Oregon Department of Environmental Quality
Water Quality Division
811 Southwest 6th Avenue
Portland, OR 97204
(503) 229-5845
Tom.Melville@state.or.us

Contact Points

Department of State Lands Removal-Fill Permit Program and Wetlands Program
<http://www.oregonstatelands.us/>

Department of Land Conservation and Development Land Use Planning and Coastal Programs
<http://www.lcd.state.or.us/>

Oregon Watershed Enhancement Board Grant Program
<http://www.oweb.state.or.us/>

Oregon Department of Environmental Quality, Water Quality Division
<http://www.deq.state.or.us/wq/>

Oregon Department of Fish and Wildlife, Habitat Division
<http://www.dfw.state.or.us/>

Oregon Department of Forestry, Forest Practices
<http://www.odf.state.or.us/>

Guidebooks, Brochures, Websites, Other Educational Materials

Primary site for information on the state wetland regulatory program:
<http://www.oregonstatelands.us/>

Adamus, P.R. 2001. Guidebook for hydrogeomorphic "HGM"-based assessment of Oregon wetland and riparian sites: Statewide classification and profiles. Oregon Division of State Lands, Salem, OR. 162 pp.

Adamus, P.R. and D. Field. 2001. Guidebook for Hydrogeomorphic "HGM"-based assessment of Oregon wetland and riparian sites. I. Willamette Valley ecoregion, Riverine Impounding and Slope/Flats subclasses. Volume IA: Assessment Methods. Oregon Division of State Lands, Salem, OR.

Adamus, P.R. 2001. Guidebook for Hydrogeomorphic "HGM"-based assessment of Oregon wetland and riparian sites. I. Willamette Valley ecoregion, Riverine Impounding and Slope/Flats subclasses. Volume IB: Technical Report. Oregon Division of State Lands, Salem, OR.

Bernert, J.A., J.M. Eilers, B.J. Eilers, E. Blok, S.G. Daggett, and K.F. Bierly. 1999. Recent wetlands trends (1981/82-1994) in the Willamette Valley, Oregon, USA. *Wetlands*. Vol. 19 No. 3. pp 545-559.

Daggett, S.G., M.E. Boule, J.A. Bernert, J.M. Eilers, E. Blok, D. Peters, and J. Morlan, 1998. Wetland and Land Use Change in the Willamette Valley, Oregon: 1982 to 1994. Shapiro and Associates, Inc. Report to the Oregon Division of State Lands, Salem, OR.
http://www.oregonstatelands.us/wetland_will_valley.pdf

Good, J.W. and C.B. Sawyer. 1998. Recommendations for a nonregulatory wetland restoration program for Oregon. Oregon Sea Grant. Corvallis, OR.

Good, J.W. and M. Cloughesy. 1999. Wetland function, management, evaluation and enhancement. In: *Watershed Stewardship: A learning guide*. Oregon State University Extension, Corvallis, OR.

Good, J.W. 2000. Summary and Current Status of Oregon's Estuarine Ecosystems. Oregon State of the Environment Report 2000. Oregon Progress Board, Salem, OR.
http://www.oregonstatelands.us/soer_intro.htm

Morlan, J.C. 2000. Summary of Current Status and Health of Oregon's Freshwater Wetlands. Oregon State of the Environment Report 2000. Oregon Progress Board, Salem, OR.
http://www.oregonstatelands.us/soer_intro.htm

Oregon Division of State Lands. 1984. Estuarine Mitigation: the Oregon Process. Salem, Oregon.

Oregon Division of State Lands. Administrative Rules for Oregon's Removal-Fill Permit Program. Salem, Oregon. <http://www.oregonstatelands.us/141-085f.pdf>

Oregon Division of State Lands. 1990. Oregon Wetlands: Wetlands Inventory User's Guide. Salem, Oregon.

Oregon Division of State Lands. Wetlands Update newsletter. Salem, OR.

Oregon Division of State Lands. 1995. Oregon's wetland conservation strategy: issue analysis, public discussions & recommendations. Salem, OR.

Oregon Division of State Lands. 2000. Wetland Mitigation Banking Guidebook for Oregon. Salem, OR.
http://www.oregonstatelands.us/mitbank_guidebk.pdf

Oregon Department of State Lands and Department of Land Conservation and Development. 2004. Oregon Wetland Planning Guidebook. Salem, Or.

Oregon Watershed Enhancement Board. 1999. Oregon Aquatic Habitat Restoration and Enhancement Guide Salem, OR. <http://www.oweb.state.or.us/publications/habguide99.shtml>

Oregon Watershed Enhancement Board. Watershed Assessment Manual. Salem, Or.
http://www.oweb.state.or.us/publications/wa_manual99.shtml

Roth, E.M. et al. 1996. Oregon freshwater wetland assessment methodology. Oregon Division of State Lands. Salem, OR.

Shaich, J. 2000. Wetland Regulatory Compliance in the Willamette Valley, Oregon: 1982 to 1994. Oregon Division of State Lands, Salem, OR. <http://www.oregonstatelands.us/WRCreport.pdf>