

141-086-0350

Locally Significant Wetland Criteria

(1) Exclusions. Regardless of their standing in relation to the criteria in OAR 141-086-0350(2) or (3) of these rules, wetlands shall not be designated as locally significant if they fall within any one of the following categories:

- (a) Wetlands artificially created entirely from upland that are:
 - (A) Created for the purpose of controlling, storing, or maintaining stormwater; or
 - (B) Active surface mining or active log ponds; or
 - (C) Ditches without a free and open connection to natural waters of the state (as defined in OAR 141-085-0010(9)) and which do not contain food or game fish (as defined in ORS 496.009); or:
 - (D) Less than one acre in size and created unintentionally as the result of:
 - (i) Irrigation water overflow or leakage; or
 - (ii) Construction activity not related to compensatory mitigation for permitted wetland impacts; or
 - (E) Of any size and created for the purpose of wastewater treatment, cranberry production, farm or stock watering, settling of sediment, cooling industrial water, or as a golf course hazard.
- (b) Wetlands or portions of wetlands that are contaminated by hazardous substances, materials or wastes as per the following conditions:
 - (A) The wetland is documented as contaminated on either the U.S. Environmental Protection Agency's (EPA) National Priority List (NPL, also known as the "superfund list"), or the Department of Environmental Quality's (DEQ) Inventory of Hazardous Substance Sites (ORS 465.225).
 - (B) Only the portion of the wetland affected by such hazardous substances or wastes shall be excluded from the LSW analysis. Affected portions shall be delineated in consultation with EPA and DEQ, and shall include areas potentially disturbed by clean-up activities.
 - (C) Contaminated wetlands that have subsequently been removed from the NPL or DEQ Inventory following clean-up shall be re-evaluated under the LSW criteria at the next periodic review.

(2) Mandatory LSW Criteria. A local government shall identify a wetland as locally significant if it meets one or more of the following criteria:

- (a) The wetland performs any of the following functions at the levels indicated below using the Oregon Freshwater Wetland Assessment Methodology:
 - (A) "Diverse" wildlife habitat; or
 - (B) "Intact" fish habitat; or
 - (C) "Intact" water quality function; or
 - (D) "Intact" hydrologic control function.
- (b) The wetland or a portion of the wetland occurs within a horizontal distance less than one-fourth mile from a water body listed by the Department of Environmental Quality as a water quality limited water body (303 (d) list), and the wetland's water quality function is described as "intact" or "impacted or degraded" using OFWAM. The 303(d) list specifies which parameters (e.g., temperature, pH) do not meet state water quality standards for each water body. A local government may determine that a wetland is not significant under this subsection upon documentation that the wetland does not provide water quality improvements for the specified parameter(s).
- (c) The wetland contains one or more rare plant communities, as defined in this rule.
- (d) The wetland is inhabited by any species listed by the federal government as threatened or endangered, or listed by the state as sensitive, threatened or endangered, unless the appropriate state or federal agency indicates that the wetland is not important for the maintenance of the species.
 - (A) The use of the site by listed species must be documented, not anecdotal. Acceptable sources of documentation may include but are not limited to: field observations at the wetland sites during the local wetlands inventory and functional assessments, and existing information on rare species occurrences at agencies such as the Oregon Natural Heritage Program, Oregon Department of Fish and Wildlife, Oregon Department of Agriculture and the U.S. Fish and Wildlife Service.
 - (B) Input originating from other locally knowledgeable sources constitutes "documentation" if verified by one of the above agencies or a university or college reference collection.
- (e) The wetland has a direct surface water connection to a stream segment mapped by the Oregon Department of Fish and Wildlife as habitat for indigenous anadromous salmonids, and the wetland is determined to have "intact" or "impacted or degraded" fish habitat function using OFWAM.

(3) Optional LSW Criteria. At the discretion of the local government, wetlands that meet one or more of the following criteria may be identified as locally significant wetlands:

- (a) The wetland represents a locally unique native plant community: wetland is or contains the only representative of a particular native wetland plant community in the UGB/UUC, which is only applicable if the entire UGB/UUC is inventoried. To be

identified as a LSW, such a wetland must also have been assessed to perform at least one of the following functions at the levels indicated below using OFWAM:

- (A) Its wildlife habitat descriptor is either "provides diverse habitat", or "provides habitat for some wildlife species"; or
 - (B) Its fish habitat descriptor is either "intact", or "impacted or degraded"; or
 - (C) Its water quality function descriptor is either "intact", or "impacted or degraded"; or
 - (D) Its hydrologic control function descriptor is either "intact", or "impacted or degraded".
- (b) The wetland is publicly owned and determined to "have educational uses" using OFWAM, and such use by a school or organization is documented for that site.

Stat. Auth.: ORS 273 .360

Stats. Implemented: ORS 197.299

Hist.: LB 7-1996, f. 12-13-96, cert. ef. 1-1-97