OAR 141-085
Draft Fiscal Impact Statement

FISCAL AND ECONOMIC IMPACT:

1) The proposed rules are expected to improve replacement of the aquatic resources that Oregonians depend on to provide clean water, flood water retention, diverse wildlife, aesthetics, recreation, and education. The economic benefits of these changes and other services provided by natural infrastructure cannot be as accurately quantified.

2) The proposed rules will change the mitigation requirements for permanent impacts to streams to be based on the loss of stream functions rather than determining the amount of required stream mitigation on a case-by-case basis. This means for some permit applicants the mitigation requirement (and cost) may increase and for others it could decrease because less mitigation, or no mitigation, may be required when a project is designed to have positive effect on stream functions.

3) Permit applicants will need to use information from the stream function and value assessment to calculate the mitigation requirements. If the mitigation being proposed is a purchase of mitigation credits then applicants will also need to look up the functions and values for those banks to compare to the project site. These changes are expected to increase the time working on a permit application by 1-2 hours of work per permit application.

4) Updating the definition of habitat restoration will expand the types of projects that qualify to have some of the required applicant information waived based on 141-085-0550(8). That could include waiving the requirement to provide a function and values assessment or a wetland delineation which could save those permit applicants the cost of hiring a consultant to complete those processes.

5) The other updates made to these rules such as reorganizing and adding clarity on the rules for mitigation and In-Lieu Fee banking and expanding the options for identifying the extent of tidal waters are not expected to have a measurable economic impact.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

Other agencies, the most frequent being Oregon Department of Transportation (ODOT) and local government's public works departments who are maintaining or expanding transportation infrastructure, apply for individual permits from DSL that propose stream mitigation. Permit applications from residential or industrial developers, and public utilities proposing infrastructure maintenance and expansion impact streams far less frequently than impacts to wetlands and would have the same economic effects and transportation projects. There are two ways these agencies may have increased cost: increased time in preparing application materials and increases (or decreases) in the cost (amount) of stream mitigation.

Applicants with stream impacts will use information from the stream function and value assessment to calculate the mitigation requirements based on the proposed rules. If the mitigation being proposed is a purchase of mitigation credits then applicants will also need to look up the functions and values for those banks to compare to the project site. These changes are expected to increase the time working on a permit application by 1-2 hours of work per permit application.

The economic effect on agencies proposing stream mitigation will be highly variable. Past ODOT projects reviewed under the proposed rule predominantly provided sufficient stream mitigation, or mitigation in excess of what would be required based on these proposed rules. Other agencies proposing impacts to streams may be required to provide more mitigation than they would have proposed in the past and more mitigation would result in an increased total project cost.

DSL will implement the proposed rules. The changes will result in additional staff review of the calculation for mitigation requirements for stream permits. This increase in staff time will vary based on the complexity of each permit. A standard review of a single mitigation proposal should take staff less than an hour after training. For a complex application that requires revision and discussion with the applicant the time required could range from 1-4 hours in total.

Effects on local governments and the public that are likely to be economically affected by the rule are included in the evaluation of fiscal and economic impacts above. Parties that we expect to be affected include local government (city and county) public works, residential developers, industrial developers, utility companies, and more rarely individual members of the public residing, or managing infrastructure, near streams.

(2) Effect on Small Businesses:
(a) Estimate the number and type of small businesses subject to the rule(s);

The Department does not have sufficient data to estimate what percentage of permit applicants are small businesses. The fiscal impact on small businesses would be the same as the impacts described in the fiscal and economic impact information above.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The reporting, recordkeeping and administrative activities and cost required to comply with these rules remain the same because there are not new reporting and recordkeeping requirements.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Permit applicants proposing impacts to streams will have a increase in cost equivalent to 1-2 hours of labor per permit for calculating the mitigation requirement.