

# DRAFT

## SUMMARY

Directs Department of State Lands, in consultation with State Department of Fish and Wildlife, to establish salmon credit program to encourage voluntary restoration of salmonid habitat and allow persons to meet compensatory mitigation obligations.

Establishes Salmon Credit Trust Fund.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to salmonid habitat restoration; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 to 9 of this 2022 Act are added to and made**  
5 **a part of ORS 196.600 to 196.921.**

6 **SECTION 2. As used in this section:**

7 (1) **“Credit generator” means an agricultural land or forestland**  
8 **owner that develops a salmon credit project on the owner’s land.**

9 (2) **“Credit purchaser” means a person that purchases a salmon**  
10 **credit.**

11 (3) **“Salmon credit” means an instrument, based on the measure of**  
12 **the increase in the functions and values of water resources of this**  
13 **state achieved at a salmon credit project, that can be used to satisfy**  
14 **a compensatory mitigation obligation.**

15 (4) **“Salmon credit dividend” means a payment a credit generator**  
16 **is entitled to receive based on retired salmon credits generated by the**  
17 **credit generator’s salmon credit project.**

18 (5) **“Salmon credit project” means a project on agricultural land or**

1 forestland to restore waters of this state that are or have historically  
2 been salmonid habitat.

3 **SECTION 3.** (1) The Department of State Lands, in consultation  
4 with the State Department of Fish and Wildlife, shall by rule develop  
5 a salmon credit program to:

6 (a) Encourage and create financial incentives for landowners to  
7 engage in voluntary salmonid habitat restoration projects; and

8 (b) Allow persons to purchase salmon credits in order to comply  
9 with a condition imposed on a permit in accordance with ORS 196.825  
10 (5), an authorization issued in accordance with ORS 196.800 to 196.921  
11 or a resolution of a violation of ORS 196.800 to 196.921.

12 (2) In establishing the salmon credit program, the department shall:

13 (a) Identify waters of this state and adjacent agricultural lands and  
14 forestlands suitable for salmon credit projects;

15 (b) Establish requirements for salmon credit projects, including:

16 (A) Restoration project types; and

17 (B) Requirements necessary to preserve the integrity of essential  
18 indigenous anadromous salmonid habitat, as defined in ORS 196.810,  
19 affected by a salmon credit project;

20 (c) Prioritize salmon credit projects that will provide the greatest  
21 increase in functions and values of water resources associated with  
22 salmon credit projects;

23 (d) Develop a system for measuring the functions and values of  
24 water resources associated with salmon credit project sites and sites  
25 for which a salmon credit will be purchased;

26 (e) Establish procedures for the inspection, certification and recer-  
27 tification of salmon credit projects;

28 (f) Establish a salmon credit price; and

29 (g) Establish a method for calculating the amount of salmon credit  
30 dividend payments described in section 6 of this 2022 Act.

31 (3) The price for a salmon credit must be set at an amount that is

1 **designed to compensate the credit generator for the average costs of**  
2 **a salmon credit project and to generate an additional amount for de-**  
3 **posit in the Salmon Credit Trust Fund established under section 8 of**  
4 **this 2022 Act.**

5 **(4) Rules adopted by the department under this section may not**  
6 **limit the use of salmon credits for permits, authorizations or resol-**  
7 **ution of violations related to development projects within the same**  
8 **area or watershed as the salmon credit project.**

9 **(5) Notwithstanding the permit requirements of ORS 196.810, a per-**  
10 **son is not required to obtain a permit for the removal or fill of any**  
11 **material as part of restoration activities associated with a salmon**  
12 **credit project.**

13 **SECTION 4. (1) A person may apply to the Department of State**  
14 **Lands, in the form and manner prescribed by the department, to be-**  
15 **come a credit generator. The application must include a description**  
16 **of the area where the salmon credit project will occur and the pro-**  
17 **posed restoration activities.**

18 **(2) Within 30 days after receiving the application, the department**  
19 **shall approve, approve with modifications or deny the application. A**  
20 **denial must be in writing and provide an explanation of the reasons**  
21 **for the denial.**

22 **(3) If the department approves an application under this section,**  
23 **the department shall assign an estimated salmon credits value to the**  
24 **project. The approval must state the period of time for which the ap-**  
25 **proval remains valid, after which time the applicant must submit a**  
26 **renewed application.**

27 **SECTION 5. (1) A credit generator may begin restoration activities**  
28 **after the approval of a salmon credit project by the Department of**  
29 **State Lands under section 4 of this 2022 Act or elect to begin restora-**  
30 **tion activities after a credit purchaser has agreed to purchase the**  
31 **salmon credits generated by the project.**

1 (2) After a salmon credit project has been completed, the credit  
2 generator shall notify the department. The department shall inspect  
3 the project to confirm the project has been completed and certify an  
4 amount of salmon credits for the project. If a salmon credit project is  
5 completed before a credit purchaser has agreed to purchase the salmon  
6 credits, the department may recertify the salmon credits generated by  
7 the project to account for any increase or decrease in the functions  
8 and values of the water resources associated with the salmon credit  
9 project at the time the credits are purchased.

10 SECTION 6. (1) The Department of State Lands shall make avail-  
11 able to purchasers of salmon credits a list of currently available  
12 salmon credits and potential salmon credit projects that will begin  
13 restoration activities once a credit purchaser has agreed to purchase  
14 the credits.

15 (2) A credit purchaser that intends to purchase salmon credits from  
16 a potential salmon credit project may agree to assume the actual costs  
17 of the salmon credit project. If a credit purchaser agrees to assume  
18 the cost of the salmon credit project, the actual cost of the project  
19 shall be deducted from the total price of the salmon credits purchased.

20 (3) After the department receives payment from a credit purchaser  
21 for a salmon credit, the department shall retire the salmon credit. The  
22 department shall remit to the credit generator an amount calculated  
23 to reimburse the credit generator for the actual costs of the project,  
24 unless the credit purchaser assumed the costs of the project. The de-  
25 partment shall deposit the remaining amount of the salmon credit  
26 purchase price on behalf of the credit generator in the Salmon Credit  
27 Trust Fund established under section 8 of this 2022 Act.

28 (4) A credit generator is entitled to a salmon credit dividend based  
29 on the amount of salmon credits retired from the credit generator's  
30 project for as long as the salmon credit project meets the requirements  
31 of the salmon credit program. The department shall annually deter-

1 mine a dividend amount for salmon credits generated by each salmon  
2 credit project based on the amount deposited in the fund under sub-  
3 section (3) of this section and a rate of return established by the de-  
4 partment.

5 (5) The right to receive a salmon credit dividend is not transferable,  
6 except in connection with the sale or transfer of the real property on  
7 which the salmon credit project is located.

8 (6) The department may revoke the right to receive a salmon credit  
9 dividend if the department determines that the salmon credit project  
10 on which the dividend was based no longer meets the requirements for  
11 a salmon credit project under sections 2 to 9 of this 2022 Act.

12 SECTION 7. (1) The Department of State Lands may establish fees  
13 calculated to cover the costs to the department of implementing  
14 sections 2 to 9 of this 2022 Act. Fees established under this section may  
15 be charged to:

16 (a) A person that submits an application for a salmon credit project  
17 under section 4 of this 2022 Act; and

18 (b) A person that purchases a salmon credit under section 6 of this  
19 2022 Act.

20 (2) Fees received under this section shall be credited to the Common  
21 School Fund.

22 SECTION 8. (1) The Salmon Credit Trust Fund is established in the  
23 State Treasury, separate and distinct from the General Fund. The  
24 Salmon Credit Trust Fund is declared to be a trust fund. Interest  
25 earned by the Salmon Credit Trust Fund shall be credited to the fund.  
26 Moneys in the fund may be invested as provided in ORS 293.701 to  
27 293.857.

28 (2) Moneys in the fund consist of moneys deposited in the fund  
29 under section 6 of this 2022 Act. All moneys in the fund are contin-  
30 uously appropriated to the Department of State Lands for the purposes  
31 of paying salmon credit dividends calculated under section 6 of this

1 **2022 Act.**

2 **SECTION 9. The Department of State Lands and the State Depart-**  
3 **ment of Fish and Wildlife shall consult with the U.S. Army Corp of**  
4 **Engineers, and any other relevant federal agencies, to develop a**  
5 **programmatic general permit applicable to restoration activities under**  
6 **the salmon credit program established under sections 2 to 9 of this 2022**  
7 **Act.**

8 **SECTION 10. This 2022 Act takes effect on the 91st day after the**  
9 **date on which the 2022 regular session of the Eighty-first Legislative**  
10 **Assembly adjourns sine die.**

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