

Department of State Lands

General Authorizations Division 141-089

General Authorization for Fish Habitat Enhancement

141-089-0100

Purpose and Applicability

(1) This rule sets forth conditions under which an applicant may, without an individual removal-fill permit from the Department place or remove material within waters of the state (including Essential Salmon Habitat as designated in OAR 141-102) for the purposes of fish habitat enhancement as defined by OAR 41-085-0010.

(2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.

(5) Unless specified, the terms used in this general authorization (GA) are defined in OAR 141-085-0010.

(6) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085 except a single application, for activities eligible for General Authorizations for Fish Enhancement and Wetland Restoration and Enhancement may be used in combination to authorize the same project.

(7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0105

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:

- (a) Be constructed for the sole purpose of improving habitat conditions for fish;
- (b) Consist of fill or removal of material as:
 - (A) Randomly placed rock
 - (B) Deflectors
 - (C) Rock and log weirs
 - (D) Gravel placement
 - (E) Pool and pond construction
 - (F) Back/side channel construction
 - (G) Channel reconstruction
 - (H) Barrier removal and placement of fish **passage** ways
 - (I) Woody material

(2) A project is not eligible for this general authorization if:

- (a) The project fails to meet any eligibility or mandatory requirements;
- (b) The project is not for the sole purpose of improving habitat conditions for fish or other aquatic habitat restoration in wetlands; or
- (c) The project application includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085; except as provided for in OAR 141-089-0205 Wetland Restoration and Enhancement.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0110

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory requirements:

- (1) Be consistent with the *Oregon Aquatic Habitat Restoration and Enhancement Guide*.
- (2) Demonstrate consistency with the Oregon Department of Fish and Wildlife's requirements under ORS 509.580 to 509.645 for upstream and downstream fish passage.
- (3) Fills shall be of a size appropriate to the stream, and not exceed 150 cubic yards per site unless otherwise recommended by the Oregon Department of Fish and Wildlife for purposes of providing or improving fish passage (e.g., a simulated stream bottom or reconstructed channel). For purposes of this general authorization, a site can be a single location of the entire project or a component of a project with multiple elements and geographic locations.
- (4) Channel reconstruction projects shall restore pre-channelized morphology to channelized streams by providing for sinuosity and width/depth ratios that emulate the natural stream channel, **as practicable**.
- (5) In order to stabilize deflectors, log weirs and other similar structures, the bed and the bank may be stabilized with nonstructural methods or riprap not more than 15 feet upstream and downstream of the structure. Rock fill shall not exceed 50 cubic yards at each site.
- (6) Rock and log weirs and full-spanning boulder weirs may be placed within the bed and banks only if they promote fish passage, prevent streambed degradation and/or

recruit spawning gravel and do not require annual reconstruction. Weirs must incorporate a keystone rock or rocks that allow for juvenile fish passage at all flows.

(7) Deflectors may be placed only if they add stream structure and increase habitat complexity.

(8) Clean, river-run gravel used for enhancing or improving spawning areas must come from within the same river system as the placement site and not exceed 100 cubic yards per site.

(9) Pools and ponds shall be designed to allow fish to escape during low water periods. Bed material may be removed to create instream pools and hydrologically connected off-channel ponds, so long as pool depth does not exceed natural maximum scour the depth of adjacent pools.

(10) Gravel and bed materials may be removed to create or clear side or back channels.

(11) Artificial barriers to fish passage including but not limited to culverts, tidegates and road crossings (not exempt from the removal-fill law under OAR 141-085-0020) may be removed and fish passage structures may be placed within the bed and banks of waters of the state.

(12) The project may convert wetlands to other waters if the project approximates or restores fish habitat lost by past land use activities. The project shall have only minimal adverse impacts to wetlands.

(13) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department (unless exempt) in accordance with OAR 141-100.

(14) When necessary to protect and conserve the water resources of the state, the Department may waive and/or modify any conflicting guidelines, mandatory requirements or conditions in either the Fish Habitat Enhancement or Wetland Restoration and Enhancement General Authorizations.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0115

Application Requirements; Public Notice Review Process

(1) An application for general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.

The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) **Once the application is deemed complete,** The Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic

Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following the comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility and mandatory requirements set out in this general authorization and do one of the following:

- (a) Approve the application and issue a letter of authorization to the applicant;
- (b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or
- (c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization the applicant may submit the project for processing and review as an application for an individual removal-fill permit, as provided in OAR 141-085.

(7) The Department may require an individual removal-fill permit for a project that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual removal-fill permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the affected local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0120

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

- (4) The authorization holder shall **ensure demonstrate** that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.
- (5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.
- (6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.
- (7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.
- (8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.
- (9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.
- (10) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.
- (11) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:
- (a) Prevent all construction materials and debris from entering waterway;
 - (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
 - (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
 - (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(12) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(12) (13) The authorization holder shall obtain a water right or reservoir permit, if needed, from the Oregon Department of Water Resources if the project involves a water diversion or impoundment.

(13) (14) The authorization holder may use streambed gravels from the trench excavation for a filter blanket.

(14) (15) Upon completion of the project the authorization holder shall report to the Oregon Watershed Enhancement Board on Restoration Inventory Report forms provided by the Department.

(15) (16) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(16) (17) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(17) (18) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(18) (19) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(19) (20) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(20) (21) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(21) (22) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0125

Violation of General Authorization; Enforcement

Violations of the terms and conditions of this general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0130

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may

obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, 2006, 2011, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2007, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

General Authorization for Streambank Stabilization

141-089-0135

Purpose and Applicability

- (1) This rule sets forth conditions under which an applicant may, without an individual removal-fill permit, place or remove material within waters of the state, except estuaries and the Pacific Ocean, for streambank stabilization.
- (2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.
- (3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.
- (4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and -0020.
- (5) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085.
- (6) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.
- (7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.
- (8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0140

Eligibility Requirements; Ineligible Projects

- (1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:
 - (a) Be an active erosion area.
 - (b) Involve not more than one thousand (1,000) cubic yards of material placed in a one-quarter mile reach of waters of the state for a single project or more than two thousand (2,000) cubic yards for multiple-related projects within a subbasin.
- (2) A project is not eligible for this general authorization if:

- (a) The project is not for streambank stabilization;
- (b) The project area is not currently subject to active erosion;
- (c) The project application includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual permits under OAR 141-085;
- (d) The project includes channel relocation and gravel bar alteration;
- (e) The project consists entirely of structural streambank stabilization methods (e.g. riprap, bulkheads);
- (f) The project involves fill in wetlands exceeding 0.2 (two-tenths) acres; or
- (g) The project fails to meet any eligibility or mandatory requirements.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0145 Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory standards:

- (1) Were Where revetments, riprap and/or any other structural techniques are unavoidable, they shall be used in combination with nonstructural approaches to streambank stabilization.
- (2) Nonstructural approaches such as slope pull-back, willow mats, rock barbs, revegetation with native plant species, log and boulder deflectors, shall be used to the maximum extent possible and where technically feasible.
- (3) Only clean, durable rock shall be used as riprap. Riprap used for the toe material shall be placed in an irregular pattern using large boulders or rock clusters.
- (4) No material shall be removed in excess of the amount required to construct a toe trench, key material to the bank, or slope the bank.
- (5) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department (unless otherwise exempt) in accordance with OAR 141-100.
- (6) No material shall be placed in excess of the minimum needed to stabilize the area subject to active erosion.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0150 Application Requirements; Public Notice; Review Process

- (1) An application for general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.
- (2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant, return the application and identify the missing, inaccurate or insufficient information. **The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.**

(3) **Once the application is deemed complete,** the Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following the comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility and mandatory requirements set out in this general authorization and do one of the following:

- (a) Approve the application and issue a letter of authorization to the applicant;
- (b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or
- (c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization, the applicant may submit the project for processing and review as an individual removal-fill permit as provided in OAR 141-085.

(7) The Department may require an individual removal-fill permit for a project that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual removal-fill permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the affected local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0155 Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

- (3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.
- (4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.
- (5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.
- (6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.
- (7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.
- (8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.
- (9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.
- (10) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.
- (11) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:
 - (a) Prevent all construction materials and debris from entering waterway;
 - (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
 - (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
 - (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(12) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(12) (13) The authorization holder shall ensure that all structures are placed in a manner that does not increase the upland surface area.

(13) (14) The authorization holder shall ensure that all structures are constructed using equipment operating outside the waterway or wetland unless otherwise approved by the Department as a part of the project plan.

(14) (15) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(15) (16) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(16) (17) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(17) (18) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(18) (19) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(19) (20) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(20) (21) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0160

Violation of General Authorization; Enforcement

Violations of the terms and conditions of any general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0165

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may

obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, ~~2006~~, ~~2011~~, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, ~~2007~~, ~~2012~~.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

General Authorization for Certain Transportation-Related Structures

141-089-0170

Purpose and Applicability

(1) This rule sets forth conditions under which an applicant may, without obtaining an individual removal-fill permit, may place or remove material from waters of the state (as described in OAR 141-085-0016), except within estuaries and the Pacific Ocean, for certain transportation-related structures including roads, railroads, culverts, bridges, bicycle lanes **and** trails.

(2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.

(5) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must obtain an individual removal-fill permit under OAR 141-085.

(6) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.

(7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0175

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable Mandatory Requirements as described in this rule. To be eligible a project must:

(a) Be for the following purposes:

(A) Widening shoulder for new roadside embankment, curbs, trails, sidewalks and rail crossings;

- (B) Widening road for additional passing lanes, turn lanes and refuges and travel lanes;
 - (C) Widening, realigning, **replacing**, or removing existing railroad beds;
 - (D) Widening, realigning, **replacing**, or removing existing roads;
 - (E) Widening, realigning, removing or replacing existing bridges or similar structures;
 - (F) Widening, realigning, **replacing**, or removing existing bicycle, pedestrian or other lanes or trails;
 - (G) Widening, realigning, replacing, or removing existing boat ramps.**
 - (G) (H)** Constructing new bicycle, pedestrian or other lanes or trails;
 - (H) (I)** Replacement of culverts or similar water conveyance structures along roads and trails that extend beyond the existing road prism;
 - (I) (J)** Construction of new culverts;
 - (J) (K)** Extension of existing culverts beyond the existing road prism;
 - (K) (L)** Streambank stabilization associated with projects listed in (A) through **(J) (K)**; and
 - (L) (M)** Hydraulic scour protection associated with bridges and similar structures including but not limited to: construction of a new trench and stone embankment; construction of new bridge footings; placing new riprap to stabilize a transportation structure foundation.
- (b) **Be for in waters other than wetlands**, no more than a total of five thousand (5000) cubic yards of material filled, removed, or altered in waters of the state for a single and complete project. **Exceeding five thousand (5,000) cubic yards is authorized only where necessary to improve or restore fluvial processes on a project specific basis.**
- (c) Be for streambank stabilization associated with a transportation-related project as listed above, with no more than one thousand (1,000) cubic yards of material placed in a one-quarter mile reach of waters of the state for a single project or two thousand (2,000) cubic yards for multiple-related projects within a subbasin.
- (d) Involve fill in wetlands of 0.5 acres or less for projects as described above in (a).
- (e) Be for test holes, borings and similar activities associated with planning and design of transportation structures.
- (f) Be for an activity that is incidental to the project necessary to provide fish passage or needed for the structural integrity of the project.
- (2) A project is not eligible for this general authorization if:
- (a) The project is not a transportation-related structure as described above;
 - (b) The project fails to meet any of the requirements of (1) above or the mandatory requirements;
 - (c) The project is located within an estuary or the Pacific Ocean.
 - (d) The project involves stream channel relocation, other than temporary diversions approved by the Department.
 - (e) The project includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual removal-fill permit under OAR 141-085, unless it is incidental to the project or is necessary to provide compensatory mitigation, compensatory wetland mitigation, fish passage or for the structural integrity of the project.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

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141-089-0180

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory standards:

(1) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100; and,

(2) If wetlands may be affected by the proposed activity, a previously approved, unexpired wetland delineation report, less than five (5) years old, that meets the requirements in OAR 141-090-0040, shall be submitted with the application. If the project does not have a previously approved, unexpired wetland delineation report, a delineation report must be submitted to the Department at least 90 days in advance of the anticipated GA application submittal.

(2) (3) A compensatory mitigation plan or compensatory wetland mitigation plan is required pursuant to OAR 141-085 to mitigate for any reasonably expected adverse impacts to water resources of the state or navigation, fishing and public recreation uses. Applicants for projects involving wetland impacts to areas less than 0.2 acres may use off-site compensatory wetland mitigation.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0185

Application Requirements; Public Notice; Review Process

(1) An application for a general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.

The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) **Once the application is deemed complete,** The Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility requirements set out in this general authorization and do one of the following:

(a) Approve the application and issue a letter of authorization to the applicant;

(b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or

(c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization the applicant may submit the project for processing and review as an application for an individual removal-fill permit, as provided in OAR 141-085.

(7) The Department may require an individual removal-fill permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual removal-fill permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the affected local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0190

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

(4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.

(6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.

(9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.

(10) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.

(11) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:

- (a) Prevent all construction materials and debris from entering waterway;
- (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
- (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
- (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(12) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(12) (13) The authorization holder shall ensure that all structures are constructed using equipment operating outside the waterway or wetland unless otherwise approved by the Department as a part of the project plan.

(13) (14) The authorization holder shall ensure that nonstructural approaches to bank stabilization such as slope pull-back, willow mats, rock barbs, revegetation with

localized native plant species, log and boulder deflectors, are utilized unless otherwise approved by Department. Where, riprap and/or other structural techniques are unavoidable, they shall be used in combination with nonstructural approaches. Where riprap is used, the toe material shall be placed in an irregular pattern using large boulders or rock clusters. Only clean, durable rock shall be used as riprap. No concrete or asphalt shall be used.

(14) (15) In the case of road removal, the authorization holder shall ensure that all affected stream and bank areas are restored to their approximate original contour.

(15) (16) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(16) (17) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(17) (18) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(18) (19) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(19) (20) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(20) (21) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(21) (22) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0195

Violation of General Authorization; Enforcement

Violations of the terms and conditions of any general authorization are subject to administrative and/or legal action which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0200

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may

obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, 2006, 2011, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public informational hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2007, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

General Authorization for Wetland Restoration and Enhancement

141-089-0205

Purpose and Applicability

- (1) This rule sets forth conditions under which an applicant may, without an individual permit from the Department, place or remove material within waters of the state for the purposes of wetland restoration or enhancement as defined in OAR 141-085-0010.
- (2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.
- (3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.
- (4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.
- (5) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085, except a single application for activities eligible for General Authorizations for Fish Enhancement and Wetland Restoration and Enhancement may be used in combination to authorize the same project.
- (6) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.
- (7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.
- (8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0210

Eligibility Requirements; Ineligible Projects

- (1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:
 - (a) Be constructed for the specific purpose of restoring or enhancing a wetland such as a project developed and funded by the Wetland Reserve Program, the

Oregon Conservation Reserve Enhancement Program, Coastal Wetlands Protection and Enhancement Program or the North American Waterfowl Conservation Act; and

(b) Restore wetland types historically found in the region; and

(c) Restore or enhance wetland functional attributes such as fish and wildlife habitat, water quality and quantity; or

(d) Support the purposes of waterfowl or wetland management within a state or federally designated management area as identified in a management plan for the area.

(2) A project is not eligible for this general authorization if:

(a) The project fails to meet any eligibility or mandatory requirements.

(b) The project application includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual permits under OAR 141-085 except as provided for in OAR 141-089-0100(6) Fish Habitat Enhancement.

(c) The project is proposed primarily for the purpose of storm or waste water management, stock ponds, or aquaculture; or

(d) The project is proposed for the purpose of complying with the requirements of compensatory wetland mitigation under OAR 141-085 unless the project is included in a Wetland Conservation Plan approved by the Department under ORS 196.678; or

(e) The project is for restoring a wetland previously constructed, restored or enhanced for the purpose of complying with the requirements for compensatory wetland mitigation under OAR 141-085; or

(f) The project is proposed within a Wetland Conservation Plan area and is not in conformance with the approved plan; or

(g) The project is designed to restore or enhance wetlands used as amenities in golf courses, subdivisions or similar settings where their purpose is primarily aesthetic.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0215

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory requirements:

(1) The project shall have only minimal adverse impact to existing wetlands and result in a measurable increase in wetland functional attributes;

(2) The project may not include clearing or removal of trees from forested wetlands to convert the forested wetland to emergent or open water wetlands, unless the resultant wetland type was historically abundant but currently scarce within the basin;

(3) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100.

(4) When necessary to protect and conserve the water resources of the state, the Department may waive and/or modify any conflicting guidelines, mandatory requirements or conditions in either the Fish Habitat Enhancement or Wetland Restoration and Enhancement General Authorizations.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0220

Project Guidelines

(1) The wetland restoration or enhancement project should use techniques identified in *An Introduction and Users' Guide to Wetland Restoration, Creation and Enhancement* developed by the Interagency Work Group on Wetland Restoration.

(2) The following activities are specifically allowed under this general authorization:

(a) Water diversion structures. Water diversion structures may be used to direct flow into restoration or enhancement sites. **The diversion structure will be consistent with the state fish passage and screening requirements of Oregon Fish and Wildlife statutes. It shall be demonstrated that the diversion/water control structure meets Oregon Fish and Wild fish passage and screening requirements.**

(b) Water impoundment structures. Water depth, duration and degree of fluctuation in the restored wetland should be characteristic of similar wetlands in the ecoregion. Water control structures may be used to manipulate water levels to simulate historical conditions, including complete drying out of the wetland.

(c) Dikes and ditches. Dikes and/or ditches may be altered or constructed. Relocating existing dikes to expand the floodplain and enlarge wetlands is an appropriate use of this general authorization. All spoil materials should be removed from the wetland or floodplain portion of the wetland site, but some material may be used within the restoration area as long as it assists in accomplishing the objectives of the restoration. Dike and levee slopes should be constructed at between 6:1 and 20:1 unless the wetland site does not allow it due to shape/size.

(d) Dike removal or breaching. For the purposes of restoring seasonal, tidal or other periodic flooding or saturation, dikes may be removed or breached under this General Authorization. Any breach should be sized sufficiently to prevent hydraulic interference in tidal and/or other flooding and to prevent scour. Dike material may be used in the restoration project or moved to an offsite, upland location.

(e) Filling of drainage ditches and or removal of drain tile. Drainage ditches may be filled and drain tile removed or broken under this general authorization.

(f) Streambank excavation. Expanding the surface area of areas subject to seasonal inundation in order to expand the wetland fringes of adjacent wetland areas by removal of bank material may be authorized under this general authorization.

(g) Surface excavation and recontouring. Restoring the uneven topographic surface to lands that have been subject to excavation and historical degradation may be authorized. All materials removed must be placed on uplands.

(h) Blasting. Blasting to create depressions or recreate habitat channels is allowed. A blasting permit may be required by the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

Application Requirements; Public Notice; Review Process

(1) An application for general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.

The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) **Once the application is deemed complete,** The Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received within fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following the comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility and mandatory requirements set out in this general authorization and do one of the following:

- (a) Approve the application and issue a letter of authorization to the applicant;
- (b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or
- (c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization, the applicant may submit the project for processing and review as an individual permit under OAR 141-085.

(7) The Department may require an individual permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the local land use planning department.

141-089-0230

Conditions for Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

(4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.

(6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.

(9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.

(10) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.

(11) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat

land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:

- (a) Prevent all construction materials and debris from entering waterway;
- (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
- (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
- (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(12) The authorization holder shall not remove and/or dispose of sediments in violation of the applicable state water quality standards.

(13) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(13) (14) The authorization holder shall provide a vegetated buffer of at least 50 feet to be maintained on uplands adjacent to the wetland enhancement or restoration project area, unless otherwise authorized by the Department.

(14) (15) Upon completion of the project, the project shall be reported to the Oregon Watershed Enhancement Board and the Department on a Restoration Inventory Report form provided by the Department.

(15) (16) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(16) (17) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(17) (18) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(18) (19) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(19) (20) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(20) (21) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(21) (22) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0235

Violation of General Authorization; Enforcement

Violations of the terms and conditions of this general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0240

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, ~~2006~~, **2011**, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public informational hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, ~~2007~~, **2012**.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

General Authorization for Recreational and Small Scale Placer Mining Within Essential Indigenous Anadromous Salmonid Habitat (Essential Salmon Habitat)
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141-089-0245**Purpose and Applicability**

(1) These rules set forth conditions under which an applicant may, without an individual removal-fill permit from the Department, place (fill), remove (removal), alter material in waters of the state within areas designated as Essential Indigenous Anadromous Salmonid Habitat (Essential Salmon Habitat as described in OAR 141-102) for the purposes of recreational and small scale placer mining.

(2) "Prospecting" as defined by law and OAR 141-085-0010; "non-motorized methods" as defined in OAR 141-085-0010; and "Highbanking" as defined in OAR 141-085-0010, conducted beyond the jurisdiction of the removal-fill law, as described in OAR 141-085-0015 are all activities exempt from regulation under the removal-fill law, OAR 141-085 and this general authorization.

(3) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. This letter of authorization is not transferable to another person.

(4) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(5) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.

(6) This general authorization is exclusive to recreational and small scale placer mining.

(7) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085.

(8) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.

(9) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(10) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0250

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:

- (a) Be for the specific purpose of recreational or small scale placer mining;
- (b) Be conducted within Essential Salmon Habitat; and
- (c) Remove, fill or alter less than twenty-five (25) cubic yards of material annually from the bed of a stream designated as Essential Salmon Habitat; and

(2) A project is not eligible for this general authorization if:

- (a) The project does not meet the eligibility and mandatory requirements;
- (b) The project involves the construction of permanent dams; or
- (c) The project involves excavation from the streambank.

(d) The project involves activities within a Scenic Waterway

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0255

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory requirements:

- (1) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100.
- (2) If the project is within a State Scenic Waterway, no dredge may be used having a motor exceeding sixteen (16) horsepower, or as otherwise established by statute.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0260

Application Requirements; Review and Approval Process

(1) An application for a general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.

(2) Within ten (10) calendar days of receipt of an application, the Department will review the application for eligibility and compliance with the mandatory requirements and notify the applicant of approval, denial, or modification.

(3) If the application is deemed incomplete, the Department shall notify the applicant, return the application and identify the missing, inaccurate or insufficient information.

(4) If the Department determines that the application meets all the requirements for this general authorization, it shall do one of the following:

- (a) Approve the application and issue a letter of authorization to the applicant;
- (b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or
- (c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization, the applicant may submit the project for processing and review as an individual permit under OAR 141-085.

(5) The Department may require an individual permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0265

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

- (1) An authorization holder may construct a temporary low rise dam if the structure:
 - (a) Does not extend across the entire width of waterway, and allows the free passage of water in an amount sufficient to enable fish to travel unimpeded up and down the stream;
 - (b) Creates only the minimal area of impounded water necessary to operate the dredge; and
 - (c) Is removed upon completion of the mining activity unless otherwise instructed by the Department.
- (2) The general authorization does not allow nozzling, sluicing, or digging to occur outside the wet perimeter, nor extend the wet perimeter.
- (3) The general authorization does not allow disturbance of rooted or embedded woody plants including trees and shrubs, regardless of their location (for example, on gravel bars).
- (4) The general authorization does not allow movement of boulders, logs, stumps, or other woody material from within the wet perimeter other than movement by hand and non-motorized equipment.
- (5) The general authorization requires that the authorization holder upon completion of the project, and to the greatest extent possible, level all piles outside the main channel of the waterway created by the activity. In addition, all furrows, potholes, or other depressions outside the main channel of the waterway created by the activity shall, if practical, have at least one open side to prevent fish entrapment as the water level falls.
- (6) The authorization holder shall obtain landowner permission before operating on public or private property.
- (7) If the authorization holder intends to use a motorized suction dredge, a suction dredge waste discharge permit **(700 PM)** from the Department of Environmental Quality, must be obtained, as applicable.
- (8) The authorization holder shall conduct the activity only during the recommended in-water work period identified in the Oregon Department of Fish and Wildlife's "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources", unless after consultation with ODFW, a waiver is granted by the Department for a longer or alternative time period.

(9) The authorization holder shall not allow petroleum products, chemicals or deleterious materials to enter the water.

(10) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(10) (11) The authorization holder must ensure that the activity complies with other applicable local, state, and federal laws and regulations, including the state and federal Endangered Species Act.

(11) (12) The authorization holder shall not allow the project to interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(12) (13) For activities within State Scenic Waterways the authorization holder shall adhere to the following conditions:

(a) (14) The activity shall not impede recreational boating.

(b) (15) Use of motorized suction dredges shall be restricted to the hours between 8 a.m. and 6 p.m. within five hundred (500) feet of a residence or within five hundred (500) feet of a campground except within a federally designated recreational mining site.

(c) (16) The activity shall not occur within the marked or posted swimming area of a designated campground or day use area except within a federally designated recreational mining site.

(d) (17) No dredge may be used having a motor exceeding sixteen (16) horsepower, or as otherwise established by statute.

(13) (18) The authorization holder shall report, on a form provided by the Department, the estimated amount of material removed, placed, or altered in each waterway operated in during the preceding calendar year. The Department must receive this report no later than January 31st of each year that this general authorization is valid.

(14) (19) The project shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(15) (20) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(16) (21) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(17) (22) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(18) (23) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(19) (24) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0270

Violation of General Authorization; Enforcement

Violations of the terms and conditions of this general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0275

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) No letter of authorization will be issued with an expiration date beyond January 1, 2006, 2011, at which time this General Authorization will be reviewed in accordance with the provisions of ORS 196.850(5). An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2007, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

<p style="text-align: center;">General Authorization for Removing and Disposing of Sediment Behind Tidegates for Channel Maintenance</p>

141-089-0280

Purpose and Applicability

- (1) These rules set forth conditions under which an applicant may, without an individual removal-fill permit from the Department, dispose (fill), and place (fill), remove (removal), or alter material in waters of the state for the purposes of removing and disposing of sediment while maintaining or cleaning natural or artificially created drainage ditches upstream from tidegates.
- (2) This general authorization is exclusive to:
 - (a) The disposal of sediments within waters of the state (e.g. wetlands) removed as a result of ditch maintenance/cleaning in drainage ditches upstream of tidegates; and/or
 - (b) The removal of material from drainage ditches (cleaning) upstream of tidegates that does not meet the requirements described in OAR 141-089-0280(4) below.
- (3) Drainage ditches that have a free and open connection (as defined in OAR 141-085-0010) to other natural waterways (as defined in OAR 141-085-0010) and are presumed to contain food and game fish are waters of the state.
- (4) The regular maintenance of legally constructed or altered ditches upstream of tidegates is exempt from regulation under the removal-fill law, OAR 141-085-0020 and this general authorization if:
 - (a) The drainage ditch was serviceable within the past five (5) years; and
 - (b) The maintenance would not significantly adversely affect wetlands or other waters of this state to a greater extent than the wetlands or waters of this state were affected as a result of the original construction of the drainage ditches.
- (5) The placement of sediment removed from drainage ditches on wetlands may be an activity subject to the removal-fill law, OAR 141-085 and this general authorization.
- (6) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.
- (7) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.
- (8) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.
- (9) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085.
- (10) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.

(11) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(12) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0285

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:

(a) Be conducted for the specific purpose of disposal of sediments within waters of the state (e.g. wetlands) removed as a result of maintenance/cleaning of drainage ditches upstream of tidegates; and/or

(b) Be conducted for the specific purpose of the removal of material (cleaning) from drainage ditches upstream of tidegates that does not meet the requirements described in OAR 141-089-0280(4) above; and

(c) Remove, fill or alter more than fifty (50) cubic yards of material from waters of the state unless the activity is within an Essential Salmon Habitat stream or State Scenic Waterway where the no amount of material is to be removed, filled or altered without prior authorization of the Department.

(2) A project is not eligible for this general authorization if:

(a) The project fails to meet any eligibility or mandatory requirements.

(b) The project application includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual permits under OAR 141-085.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0290

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory requirements:

(1) The removal of sediments from drainage ditches shall be kept to the minimum amount necessary to remove recently deposited materials. Additional channel widening or deepening beyond that amount is not allowed under this general authorization.

(2) The sediments removed from drainage ditches may be spread in a thin layer (three inches or less) on farmed wetland or wet pasture provided the impacts are temporary and there is no permanent conversion from wetland to upland. Freshwater wetland (other than farmed wetland or wet pasture mentioned above), salt marsh, tidal flats or permanent or semi-permanent open water areas shall not be used for sediment disposal.

(3) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100.

141-089-0295

Application Requirements; Public Notice; Review Process

(1) An application for general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.

The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) **Once the application is deemed complete,** The Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following the comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility and mandatory requirements set out in this general authorization and do one of the following:

- (a) Approve the application and issue a letter of authorization to the applicant;
- (b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or
- (c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization, the applicant may submit the project for processing and review as an individual permit under OAR 141-085.

(7) The Department may require an individual permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the

activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0300

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

- (1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.
- (2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.
- (3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.
- (4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.
- (5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.
- (6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.
- (7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.
- (8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.
- (9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.

(10) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.

(11) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:

- (a) Prevent all construction materials and debris from entering waterway;
- (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
- (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
- (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(12) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(12) (13) For drainage ditch cleaning activities, the authorization holder shall comply with the following:

- (a) Removal of existing woody vegetation, other than that growing within the maintained channel bed is prohibited;
- (b) Only sand and silt sediments may be removed. This authorization is not for the removal of gravel;
- (c) Erosion of disturbed areas (i.e., drainage ditch banks and work areas) shall be minimized through revegetation with grass and/or planting of trees and shrubs; and
- (d) Removal shall be conducted with land-based equipment from one side of the drainage ditch unless specifically authorized by the Department.

(13) (14) The authorization holder shall not remove and/or dispose of sediments in violation of the applicable state water quality standards.

(14) (15) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(15) (16) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(16) (17) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety,

recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(17) (18) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(18) (19) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(19) (20) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(20) (21) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0305

Violation of General Authorization; Enforcement

Violations of the terms and conditions of this general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0310

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) No letter of authorization will be issued with an expiration date beyond January 1, 2006, 2011, at which time this general authorization will be reviewed in accordance with the provisions of ORS 196.850(5). An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2007, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a

written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

<p style="text-align: center;">General Authorization for Piling Placement or Removal Within Waters of the State</p>
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141-089-0400

Purpose and Applicability

(1) These rules set forth conditions under which an applicant may, without an individual removal-fill permit from the Department, place or remove piling in waters of the state including areas designated as Essential Indigenous Anadromous Salmonid Habitat (Essential Salmon Habitat as described in OAR 141-102) for such purposes as over-water structure support or navigational aid.

(2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0016 and 0021.

(5) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085.

(6) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0011.

(7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0405

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:

(a) Be placement of no more than five (5) piles or one (1) dolphin consisting of three (3) to five (5) piles;

(b) Be individual piles and piles placed for over-water structure support (e.g., pile associated with docks, piers), mooring and turning dolphins, or navigational aids

not otherwise exempt from the removal-fill law as described in OAR 141-085-0015 and 0020);

(c) Be untreated wood, steel, fiberglass or plastic piles;

(d) Be piles fitted with devices to effectively prevent perching by piscivorous bird species;

(e) Be placed from a barge-mounted or above top-of-bank position. If barge-mounted, barge shall not at any time be grounded on the bed or banks.

(f) Be placed by means of impact or vibratory methods or removed (to the extent regulated as material pursuant to OAR 141-085-0010 (125)) by means of vibratory method only.

(2) A project is not eligible for this general authorization if:

(a) Piling is placed to construct headwalls or other bank treatment structure;

(b) Piling is placed to create new uplands;

(c) Piling is sheetpile;

(d) Piling is placed or removed by excavation (including hydraulic jet method) of streambed or banks;

(e) Piling is placed in wetlands;

(f) Piling is placed so as to impede normal water flow into or within wetlands or deflect water in a manner that causes erosion;

(g) Piling is placed so as to interfere with, or create hazard to, recreational or commercial navigation;

(h) Piling is placed as poured-in-place concrete;

(i) The project includes placement of footings or other support structure for piling;

(j) The project application includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual permits under OAR 141-085; or

(k) The project fails to meet any eligibility or mandatory requirements.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0410

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory standards:

(1) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department (unless otherwise exempt) in accordance with OAR 141-100.

(2) No pile shall be placed in excess of the minimum necessary to fulfill its essential purpose or function.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0415

Application Requirements; Public Notice; Review Process

(1) An application for general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that

contains all the information required in the application packet provided by the Department.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.

The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) **Once the application is deemed complete,** The Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following the comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility and mandatory requirements set out in this general authorization and do one of the following:

- (a) Approve the application and issue a letter of authorization to the applicant;
- (b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or
- (c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization, the applicant may submit the project for processing and review as an individual removal-fill permit as provided in OAR 141-085.

(7) The Department may require an individual removal-fill permit for a project that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual removal-fill permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the affected local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0420

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Department designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

(4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.

(6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(8) The authorization holder shall not disturb or destroy woody vegetation to complete the project.

(9) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.

(10) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The

authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:

- (a) Prevent all construction materials and debris from entering waterway;
- (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
- (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
- (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(11) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(11) (12) The authorization holder shall ensure that all structures are placed in a manner that does not increase the upland surface area.

(12) (13) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(13) (14) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(14) (15) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(15) (16) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(16) (17) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(17) (18) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(18) (19) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0425

Violation of General Authorization; Enforcement

Violations of the terms and conditions of any general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0430

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0077. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, ~~2006, 2011~~, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, ~~2007, 2012~~.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

**General Authorization for Minimal Disturbance Activities
(Less Than Two Cubic Yards) Within
Essential Indigenous Anadromous Salmonid Habitat**

141-089-0500

Purpose and Applicability

(1) These rules set forth the conditions under which an applicant may, without an individual removal-fill permit from the Director, place or remove very small quantities of material within designated essential indigenous anadromous salmonid habitat areas for projects that have only minimal, temporary short-term adverse effects and no mid-term or long-term adverse effects. For purposes of this General Authorization “project” means the same as defined in OAR 141-085-0010(165).

(2) An authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. An applicant is authorized to commence an activity under this general authorization by submitting a complete application on a form provided by the Department and by agreeing to the eligibility requirements (OAR 141-089-0505), mandatory requirements (OAR 141-089-0510) and the conditions for issuance (OAR 131-089-0520). The term and conditions of issuance shall be stated in the authorization. The term shall not exceed the expiration date of this general authorization. The authorization is not transferable to another person.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.

(5) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.

(6) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(7) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant’s project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0505

Eligibility Requirements; Ineligible Projects

(1) In order to authorize an activity under this general authorization the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must:

- (a) Have only minimal, temporary short-term adverse effects and no mid-term or long-term adverse effects;

- (b) Place or remove not more than two cubic yards of material at any individual site and, cumulatively, not more than ten cubic yards of material within a designated essential indigenous anadromous salmonid habitat stream in a single project year;
 - (c) Have no effect on any listed species; and
 - (d) Have no effect on known archeological sites.
- (2) Examples of eligible projects include, but are not limited to, the following:
- (a) Investigative drilling to gather necessary technical data for designing building and/or road foundations;
 - (b) Installation of scientific measurement devices whose purpose is to measure and record scientific data such as staff gages, tide gages, water recording devices, water quality testing and improvement devices and similar structures;
 - (c) Limited surveys for historic resources.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0510

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory requirements:

- (1) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0515

Application Requirements; Review and Approval Process

- (1) Any person proposing to conduct an activity covered by this general authorization shall submit an application to do so on a form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.
- (2) The Department will review the application for eligibility and compliance with the mandatory requirements.
- (3) If the application is deemed incomplete or ineligible, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.
- (4) If the Department determines that the application does not meet all the requirements for this general authorization, it shall deny the application and notify the applicant. If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization, the applicant may submit the project for processing and review as an individual permit under OAR 141-085.
- (5) The Department may require an individual permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the local land use planning department.

141-089-0520

Conditions for Issuance of General Authorization

All persons conducting activities under this general authorization shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

(4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(5) If previously unknown listed species are encountered during the project, the authorization holder shall immediately cease work and contact the Department as soon as possible.

(6) When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.

(9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.

(10) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.

(11) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion

control measures have been implemented. These projects will also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:

- (a) Prevent all construction materials and debris from entering waterway;
- (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
- (c) Use impervious materials to cover stockpiles when unattended or during rain event; and
- (d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(12) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(12) (13) The authorization holder shall not remove and/or dispose of sediments in violation of the applicable state water quality standards.

(13) (14) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(14) (15) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(15) (16) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(16) (17) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(17) (18) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(18) (19) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(19) (20) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0525

Violation of General Authorization; Enforcement

Violations of the terms and conditions of this general authorization are subject to administrative and/or legal action, which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-0530

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) No activity will be authorized by this general authorization beyond January 1, 2007, at which time this General Authorization will be reviewed in accordance with the provisions of ORS 196.850(5).

(2) This general authorization shall be reviewed by the Department on or before January 1, 2011, at which time it shall be reviewed in accordance with the provisions of ORS 196.850(5), and modified, reissued or rescinded. The review will include public notice and opportunity for public hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

GENERAL AUTHORIZATIONS

<p style="text-align: center;">General Authorization for Oregon Department of Transportation Bridge Replacement and Repair Projects</p>
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141-089-0550

Purpose and Applicability

(1) This rule sets forth conditions under which the Oregon Department of Transportation (ODOT) may, with a letter of authorization from the Director, place or remove material from waters of the state for the purposes of replacing and repairing highway bridges. This rule is put forth to promote a bridge replacement program that is heavily influenced by sustainable development practices. A goal of the performance standards under this rule is to guide the design and construction of environmentally sound bridges that improve the condition and performance of natural systems.

(2) A letter of authorization from the Department verifying compliance with this general authorization is required prior to any person commencing an activity authorized by this general authorization. The terms and conditions of issuance shall be stated in the letter of authorization. A letter of authorization is transferable from ODOT to another person in accordance with OAR 141-085-0034.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long-term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0020.

(5) Unless otherwise specified below, the terms used in this general authorization are defined in OAR 141-085-0010.

(6) Bridge replacement and repair activities that qualify for this General Authorization are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(7) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805- 390.925

141-089-0555

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization, the Department shall determine that the project is eligible and meets the applicable mandatory requirements as described in this rule. To be eligible a project must be a bridge replacement or repair and shall be limited to the following purposes:

- (a) Widening shoulder for new roadside embankment, curbs, trails, sidewalks and rail crossings;

- (b) Widening road for additional passing lanes, turn lanes and refuges and travel lanes;
- (c) Widening, replacing, realigning or removing existing railroad beds;
- (d) Widening, replacing, realigning or removing existing roads;
- (e) Widening, replacing, realigning, removing or replacing existing bridges or similar structures;
- (f) Widening, realigning or removing existing bicycle, pedestrian or other lanes or trails;
- (g) Constructing new bicycle, pedestrian or other lanes or trails;
- (h) Replacement of culverts or similar water conveyance structures along roads and trails that extend beyond the existing road prism;
- (i) Construction of new culverts;
- (j) Extension of existing culverts beyond the existing road prism;
- (k) Streambank stabilization associated with projects listed in (a) through (j);
- (l) Hydraulic scour protection associated with bridges and similar structures including but not limited to: construction of a new trench and stone embankment; construction of new bridge footings; placing new riprap to stabilize a transportation structure foundation;
- (m) Temporary structures;
- (n) Staging areas for equipment that will be restored at time of project completion;
- (o) Test holes, boring and similar activities associated with planning and design of transportation structures; and
- (p) Other activities that within the discretion of the Department are determined to be necessary to:
 - (A) Provide fish passage;
 - (B) Ensure the structural integrity of the project; or
 - (C) Relocate utilities spanning the original bridge structure or similar activities that are integrally related to accomplishing the bridge repair or replacement.

(2) A project is not eligible for this general authorization if:

- (a) The project is not primarily a bridge replacement or repair;
- (b) The project fails to meet any of the requirements of (1) above or the mandatory requirements;
- (c) The project includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual removal-fill permit under OAR 141-085, unless it is incidental to the project or is necessary to provide compensatory mitigation, compensatory wetland mitigation, fish passage or for the structural integrity of the project.

(3) Permanent fill in wetland is limited to 0.5 acres or less. In waters other than wetlands, no more than a total of five thousand (5,000) cubic yards of material may be filled, removed or altered in waters of the state for a single and complete project. Exceeding five thousand (5,000) cubic yards is authorized only where necessary to improve or restore fluvial processes on a project specific basis.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805- 390.925

141-089-0560

Mandatory Requirements

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- (1) ODOT must be a qualified applicant as defined in OAR 141-085-0010(3).
- (2) If the activity is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100.
- (3) A compensatory mitigation plan or compensatory wetland mitigation plan is required pursuant to OAR 141-085-0115 to 141-085-0176 to mitigate for any reasonably expected adverse impacts to water resources of the state or navigation, fishing and public recreation uses.
 - (a) Prior to initiating construction, ODOT shall provide a project notification form that documents how compensatory wetland mitigation or compensatory mitigation for waters other than wetlands is to be achieved for the individual project;
 - (b) ODOT shall develop and implement a comprehensive compensatory mitigation site monitoring, reporting, and corrective action program as approved by the Department.
- (4) Prior to expiration of this General Authorization, ODOT shall calculate total acres of permanent wetland impact for those projects authorized under this rule and determine if the functional attributes of the compensatory wetland mitigation has compensated for functions lost through project development in accordance with OAR 141-085-0136. If a deficit exists, the balance shall be achieved through additional on-site or off-site mitigation including payment-to-provide options in accordance with OAR 141-085-0131.

Stat. Auth.: ORS 196.850
Stats. Implemented: ORS 196.800-196.990; ORS 390.805- 390.925

141-089-0565

Application Requirements; Review Process

- (1) To qualify for a General Authorization under this rule, ODOT shall, before beginning construction, submit to the Department an application, on a form provided by the Division that includes the following information:
 - (a) Location of project;
 - (b) Map of project area with removal-fill impact area clearly identified;
 - (c) Dates of expected work;
 - (d) References to documents previously reviewed and approved by the Department (e.g., environmental assessments);
 - (e) Project design information, including plan and section view of proposed new structures;
 - (f) Locations of temporary access areas, staging areas, and other areas of disturbance;
 - (g) Wetland delineation concurrence letter, if applicable;
 - (h) Location of ordinary high water, if applicable;
 - (i) Jurisdictional impact acreage and volume (in cubic yards) of removal and/or fill;
 - (k) List of ODOT performance standards applicable to the project;
 - (l) Documentation demonstrating how and when compensatory mitigation will be achieved;
 - (m) Documentation demonstrating how project complies with applicable ODOT Performance Standards, and any other relevant information requested by the Department.
 - (n) Documentation of local government land use approval; and
 - (o) Documentation of coordination with adjacent property owners, Tribal governments (as applicable) and state and federal natural resource agencies.

(2) Within fifteen (15) calendar days of receipt of a completed application, the Division will review the application for compliance with the conditions in OAR 141-089-0570 of these rules and notify ODOT whether the project is eligible, eligible with new or modified conditions, or ineligible. **The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.**

Stat. Auth.: ORS 196.850
Stats. Implemented: ORS 196.800-196.990; ORS 390.805- 390.925

141-089-0570

Conditions of Issuance of General Authorization

ODOT shall adhere to the conditions of the General Authorization.

(1) ODOT shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project.

(2) ODOT shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of construction activities for a project authorized under this general authorization.

(3) ODOT shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by the Department for a longer or alternative time period.

(4) When listed species are present, ODOT shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, ODOT shall contact the Department as soon as possible.

(5) ODOT shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, ODOT shall immediately cease work at the discovery site and contact the Department.

(6) ODOT shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(7) ODOT shall implement and comply with all relevant ODOT Bridge Program Performance Standards.

(8) ODOT shall flag the boundaries of clearing limits associated with site access and construction to prevent ground disturbance of critical riparian vegetation, wetlands and other sensitive sites beyond the flagged boundary.

(9) ODOT shall prepare and carry out a site restoration plan as necessary to ensure that all habitats (e.g., streambanks, soils and vegetation) disturbed by the project are cleaned up and restored. Site restoration shall be conducted using a diverse assemblage of species native to the project area or region, including grasses, forbs, shrubs and trees as appropriate. Grass and forb seed mixes containing exotic species are permitted, if they will hold the soil, not persist, and are certified to be free of noxious weeds.

(10) ODOT shall locate vehicle staging, cleaning, maintenance, refueling, and fuel storage facilities (a) in areas that have been previously compacted, disturbed, and

cleared (if available) and (b) in areas where delivery of contaminants to the soil and waters can be prevented, contained, and cleaned rapidly.

(11) ODOT shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard.

(12) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(12) (13) ODOT shall eliminate direct discharge of stormwater from bridge decks to waters.

(13) (14) ODOT shall prepare and carry out a pollution and erosion control plan to prevent pollution caused by surveying or construction operations. The pollution and erosion control plan will meet requirements of all applicable laws and regulations.

(14) (15) ODOT shall ensure that other structures, uses or activities not associated with the application for the proposed project (i.e., vehicle maintenance, construction of storage buildings, parking lots) are not permitted.

(15) (16) ODOT shall comply with the following bank stabilization guidelines:

(a) Unless precluded by flow conditions, channel and bank stabilization efforts should use a vegetative stabilization approach such as one of the following methods:

(A) Woody plantings and variations (e.g., live stakes, brush layering, fascines, brush mattresses), where appropriate.

(B) Herbaceous cover, where analysis of available records (e.g., historical accounts and photographs) shows that trees or shrubs did not exist on the site within historic times.

(C) Deformable soil reinforcement, consisting of soil layers or lifts strengthened with fabric and vegetation that are mobile ('deformable') at approximately two- to five-year recurrence flows.

(D) Coir logs (long bundles of coconut fiber), straw bales and straw logs used individually or in stacks to trap sediment and provide growth medium for riparian plants.

(E) Bank reshaping and slope grading, when used to reduce a bank slope angle without changing the location of its toe, increase roughness and cross-section, and provide more favorable planting surfaces.

(F) Floodplain roughness, e.g., floodplain tree and large woody debris rows, live siltation fences, brush traverses, brush rows and live brush sills; used to reduce the likelihood of avulsion in areas where natural floodplain roughness is poorly developed or has been removed.

(G) Floodplain flow spreaders, consisting of one or more rows of trees and accumulated debris used to spread flow across the floodplain.

(b) Flow-redirection structures known as barbs, vanes, or bendway weirs may be used for bank stabilization, when designed as follows or otherwise approved in writing by DSL:

- (A) No part of the flow-redirection structure may exceed bank full elevation, including all rock buried in the bank key.
- (B) The flow-redirection structure shall be composed primarily of wood or otherwise shall incorporate large wood at a suitable elevation in an exposed portion of the structure or the bank key. Placing the large woody debris near streambanks in the depositional area between flow direction structures to satisfy this requirement is not approved, unless those areas are likely to be greater than 1 meter in depth, sufficient for salmon rearing habitats.
- (C) The trench excavated for the bank key above bankfull elevation shall be filled with soil and topped with native vegetation.
- (D) The maximum flow-redirection structure length shall not exceed 1/4 of the bankfull channel width.
- (E) Rock shall be placed individually, without end dumping.
- (F) If two or more flow-redirection structures are built in a series, the flow-redirection structure farthest upstream shall be placed within 150 feet or 2.5 bankfull channel widths, from the flow-redirection structure farthest downstream.
- (G) Woody riparian plantings shall be included as a project component where appropriate.

(c) When used for bank stabilization, rock will be class 350 metric, or larger, wherever feasible, but may not impair natural stream flows into or out of secondary channels or riparian wetlands. Whenever feasible, topsoil shall be placed over the rock and planted with woody vegetation. Rock may be used instead of wood for the following purposes and structures:

- (A) As ballast to anchor or stabilize large woody debris components of an approved bank treatment.
- (B) To fill scour holes, as necessary to protect the integrity of the project, if the rock is limited to the depth of the scour hole and does not extend above the channel bed.
- (C) To construct a footing, facing, head wall, or other protection necessary to prevent scouring or downcutting of, or fill slope erosion or failure at, an existing flow control structure (e.g., a culvert, water intake), utility line, or bridge support.
- (D) To construct a flow-redirection structure as described above.

(d) If flow conditions require the use of riprap to achieve bank stabilization, adequate fines and substrate materials must be incorporated to sustain the growth and survival of native herbaceous vegetation and shrubs.

(16) (17) In the case of road removal, ODOT shall ensure that all affected stream and bank areas are restored to their approximate original contour.

(17) (18) If temporary roads are required through wetlands, ODOT shall install culverts to maintain connectivity between wetland areas.

(18) (19) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(19) (20) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety,

recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(20) **(21)** The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(21) **(22)** The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long-term harm to water resources of the state.

(22) **(23)** The Division may, at any time, by notice to ODOT revoke or modify any project approval granted under this General Authorization if it determines the conditions of the General Authorization are insufficient to minimize individual or cumulative environmental impacts.

(23) **(24)** ODOT is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

(24) **(25)** ODOT shall keep a copy of all relevant permits and approvals available at the work site whenever the activity is being conducted.

(25) **(26)** The General Authorization applies only to the permit requirements of the Removal-Fill Law. Any activity on designated State Scenic Waterways must still obtain prior approval from the Director as required by the Oregon Scenic Waterway Law and Scenic Waterway Removal-Fill Rules (OAR 141-100).

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805- 390.925

141-089-0575

Violation of General Authorization; Enforcement

Violations of the terms and conditions of any general authorization are subject to administrative and/or legal action that may result in revocation of the authorization. ODOT is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990; ORS 390.805- 390.925

141-089-0580

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, 2009, 2011, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public informational hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2010, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990

<p style="text-align: center;">General Authorization for Minor Impacts to Freshwater Wetlands located within Urban Growth Boundaries or Urban Unincorporated Communities</p>

141-089-0585

Purpose and Applicability

(1) This rule sets forth conditions under which an applicant may, without obtaining an individual removal-fill permit, place or remove material from certain freshwater wetlands within waters of the state (as described in OAR 141-085-0016), for all types of activities within designated Urban Growth Boundaries (UGB) or Urban Unincorporated Communities (UUC).

(2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. The term shall not exceed the expiration date of this general authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.

(5) Other structures, uses or activities included in any application for this general authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this general authorization. An application encompassing multiple activities must obtain an individual removal-fill permit under OAR 141-085.

(6) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.

(7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

141-089-0590

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable Mandatory Requirements as described in this rule. To be eligible a project must be for a removal-fill activity that:

- (a) Is located in a freshwater wetland;
- (b) The removal-fill is less than 0.1 (one-tenth) acre;

- (c) Is within a designated Urban Growth Boundary (UGB) or Urban Unincorporated Community (UUC);
 - (d) Is not within an area that contains state or federal listed species;
 - (e) Is not in an area designated in the local comprehensive land use plan as a locally significant wetland;
 - (f) Is beyond the floodway or flood fringe area as designated on maps approved by the Federal Emergency Management Agency; and
 - (g) Is not located adjacent to an estuary or to designated Essential Indigenous Anadromous Salmon Habitat.
- (2) A project is not eligible for this general authorization if:
- (a) The project fails to meet any of the requirements of (1) above or the mandatory requirements;
 - (b) The project includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual removal-fill permit under OAR 141-085, unless it is incidental to the project or is necessary to provide fish passage or for the structural integrity of the project.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

141-089-0595

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory standards:

- (1) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100.
- (2) A wetland delineation report has been approved by the Department in accordance with OAR 141-090-0040.
- (3) A compensatory wetland mitigation plan is required pursuant to OAR 141-085 to mitigate for any reasonably expected adverse impacts to water resources of the state or navigation, fishing and public recreation uses. Applicants for projects involving wetland impacts to areas less than 0.1 (one-tenth) acre may use off-site compensatory wetland mitigation.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

141-089-0600

Application Requirements; Public Notice; Review Process

(1) An application for a general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information.

The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended

application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) **Once the application is deemed complete,** tThe Department shall provide notice of the application to the adjacent property owners, the local planning department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility requirements set out in this general authorization and do one of the following:

(a) Approve the application and issue a letter of authorization to the applicant;

(b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or

(c) Deny the application and notify the applicant.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization the applicant may submit the project for processing and review as an application for an individual removal-fill permit, as provided in OAR 141-085.

(7) The Department may require an individual removal-fill permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water resources of the state. The Department may also require an individual removal-fill permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the affected local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

141-089-0605

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before

commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

(4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(5) If previously unknown state or federal listed species are encountered during the project, the authorization holder shall cease work immediately and contact the Department as soon as possible.

(6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(7) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access and keying in of structures.

(8) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted.

(9) The authorization holder shall ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of the state.

(10) The authorization holder shall assure that the work will not cause turbidity of affected waters to exceed 10% of natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient <2%), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This standard applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land. For projects in hilly or mountainous areas, the turbidity standard can only be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects will also be subject to additional reporting requirements. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be 100 feet upstream from the fill point at an undisturbed site (background), 100 feet downstream, from the fill point and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard. The authorization holder shall implement, as appropriate, all practicable erosion control measures including the following:

- (a) Prevent all construction materials and debris from entering waterway;
- (b) Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, or other measures sufficient to prevent movement of soil;
- (c) Use impervious materials to cover stockpiles when unattended or during rain event; and

(d) Erosion control measures shall be inspected and maintained periodically to ensure their continued effectiveness.

(11) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(11) (12) The authorization holder shall ensure that all structures are constructed using equipment operating outside the waterway or wetland unless otherwise approved by the Department as a part of the project plan.

(12) (13) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(13) (14) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(14) (15) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(15) (16) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(16) (17) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(17) (18) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(18) (19) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

141-089-0610

Violation of General Authorization; Enforcement

Violations of the terms and conditions of any general authorization are subject to administrative and/or legal action which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

141-089-0615

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process described in OAR 141-085-0075. However, this is only an opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, ~~2006~~, ~~2011~~, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public informational hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, ~~2007~~, ~~2012~~.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925

General Authorization for Installation, Replacement and Repair of Utility Lines

141-089-620

Purpose and Applicability

(1) This rule sets forth conditions under which an applicant may, without obtaining an individual removal-fill permit, install, replace or remove material from waters of the state (as described in OAR 141-085-0016) for installation and repair of utility lines including, outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines.

(2) A letter of authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. The term and conditions of issuance shall be stated in the letter of authorization. A letter of authorization is transferable to another person in accordance with OAR 141-085-0034.

(3) This general authorization is made pursuant to ORS 196.850 and is based upon the determination that the authorized activities are similar in nature and when conducted in accordance with this general authorization rule will not result in long term harm to water resources of the state, and will cause only minimal individual and cumulative environmental impacts.

(4) This general authorization does not apply to activities or waters exempt from the removal-fill law as described in OAR 141-085-0015 and OAR 141-085-0020.

(5) An application encompassing activities not authorized or covered by this general authorization must obtain an individual removal-fill permit under OAR 141-085.

(6) Unless otherwise specified, the terms used in this general authorization are defined in OAR 141-085-0010.

(7) Activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as described in OAR 141-085-0064.

(8) In the event a dispute arises as to the applicability of this general authorization to any project application, the Department shall make the final determination. The Department shall rely upon the applicant's project application and supporting documentation for its decision.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-625

Eligibility Requirements; Ineligible Projects

(1) In order to issue a letter of authorization the Department shall determine that the project is eligible and meets the applicable Mandatory Requirements as described in this rule. To be eligible a project must:

(a) Be for the following purposes:

a. Installation of a pipeline for transportation of any gaseous, liquid, or slurry substance

b. Installation of a cable, line, or wire for the transmission of electrical energy, telephone, and telegraph messages, and radio television communication

(b) Be for no more than a total of 1000 thousand cubic yards of material for a single and complete project filled, removed, or altered below the ordinary high water line of a waterway.

(c) Be for foundations for overhead utility line towers, poles, and anchors of the minimum size necessary and consist of separate footings for each tower leg rather than a pad.

(d) Be only for bank stabilization that is incidental to the project.

(2) A project is not eligible for this general authorization if:

(a) The project is not a utility line as described above;

(b) The project fails to meet any of the requirements of (1) above or the mandatory requirements;

(c) The project is for construction of access roads

(d) The project involves permanent fill of more than 0.5 acre within wetlands.

(e) All stream crossings are not made perpendicular to the bankline, or nearly so, and at the narrowest, or least sensitive, portion of the wetland or riparian corridor

(f) The project includes activities which drain waters of the state, such as drainage tile, or french drains.

(g) The project involves stream channelization or stream relocation, other than temporary diversions approved by the Department.

(h) The project includes retaining walls, bulkheads, gabions or similar vertical structures.

(i) The project shall not result in permanent loss of streambed in fish-bearing waters.

(j) The project includes any structure, use or activity subject to another general authorization under OAR 141-089 or individual removal-fill permit under OAR 141-085, unless it is incidental to the project or is necessary to provide compensatory mitigation, compensatory wetland mitigation, fish passage or for the structural integrity of the project.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-630

Mandatory Requirements

The Department shall review each application to ensure that a project complies with the following mandatory standards:

(1) If the project is within a State Scenic Waterway, a scenic waterway removal-fill permit must have been obtained from the Department in accordance with OAR 141-100; and

(2) A compensatory mitigation plan or compensatory wetland mitigation plan is required pursuant to OAR 141-085 to mitigate for any reasonably expected adverse impacts to water resources of the state or navigation, fishing and public recreation uses. Applicants for projects involving impacts to freshwater wetlands less than 0.2 acre in size may use off-site compensatory wetland mitigation.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

Application Requirements; Public Notice; Review Process

(1) An application for a general authorization under this rule shall be submitted on an application form available from the Department. A complete application is one that contains all the information required in the application packet provided by the Department and a complete mitigation plan as required.

(2) The Department shall notify the applicant within fifteen (15) calendar days of receipt of the application if the application is incomplete or ineligible; otherwise the application will be considered complete. If the application is deemed incomplete, the Department shall notify the applicant and identify the missing, inaccurate or insufficient information. The Department will not continue to process an incomplete application. To re-initiate the application review process the applicant may submit an amended application at any time. The applicant must resubmit an entire amended application for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended application commences a new review period.

(3) Once the application is deemed complete, the Department shall provide notice of the application to the adjacent property owners, the local planning department, the local public works department, the local Soil and Water Conservation District, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of Land Conservation and Development, affected Tribal government, the State Historic Preservation Office, the Oregon Water Resources Department, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service. Diking and drainage districts shall also be notified as applicable. If the project is on a federally designated Wild and Scenic River, the Department shall provide notice to the appropriate U.S. Forest Service or Bureau of Land Management office.

(4) The Department shall consider comments received with fifteen (15) calendar days of the notice date. In the event a party fails to comment within the (15) calendar day period, the Department shall assume the party has no objection to the application.

(5) The Department may waive or shorten the comment period described in (4) above upon a showing by the applicant in the application that the interested parties listed in (3) have previously reviewed and approved the project.

(6) Following comment period and not more than forty (40) calendar days from the receipt of an application, the Department will determine if the project meets the eligibility requirements set out in this general authorization and do one of the following:

(a) Approve the application and issue a letter of authorization to the applicant;

(b) Approve the application and issue a letter of authorization, with project specific conditions, to the applicant; or

(c) Deny the application and notify the applicant.

(d) Process the application under OAR 141-085 as an individual permit.

If the Department determines that the proposed project is ineligible or otherwise does not qualify for the general authorization the applicant may submit the project for processing and review as an application for an individual removal-fill permit, as provided in OAR 141-085.

(7) The Department may require an individual removal-fill permit for projects that would otherwise be authorized by this general authorization, if the Department determines that the activity might cause more than minimal individual or cumulative environmental impacts or might result in long-term harm to the water

resources of the state. The Department may also require an individual removal-fill permit if requested to do so by the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality or the affected local land use planning department.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-640

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) shall adhere to the conditions of the general authorization.

(1) The authorization holder shall conduct all work in compliance with the comprehensive plan, zoning requirements or other local, state, or federal regulations pertaining to the project. Local land use planning department approval shall be obtained if the project is located within a Federal Emergency Management Agency designated floodway. All other necessary approvals and permits shall be obtained before commencing with the authorized project. All necessary approvals and permits shall be obtained before commencing the project under this general authorization.

(2) The authorization holder shall obtain all necessary access permits or rights-of-way prior to entering lands owned by another for the purposes of completing a project authorized under this general authorization.

(3) The authorization holder shall conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period.

(4) The authorization holder shall ensure that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.

(5) When listed species are present, the authorization holder shall comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the authorization holder shall contact the Department as soon as possible.

(6) The authorization holder shall not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder shall immediately cease work at the discovery site and contact the Department.

(7) The authorization holder shall ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(8) The authorization holder shall ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access.

(9) The authorization holder shall ensure that areas disturbed in the course of completing the authorized work are revegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department, except that grass seed mixes of exotics certified free of noxious weeds that will hold the soil and not persist are permitted. The standard for success is 75% areal coverage after the fifth growing season for native plant species that replace the habitat type lost or damaged. Planted areas must be temporarily fenced, or otherwise

protected from damage, until the vegetation is established. Project sites must be revegetated to the extent possible up to the bankfull stage or line of non-aquatic vegetation, whichever is greater. When any wetland areas are adversely affected, revegetation must extend to the upland limits of the wetland area.

(10) All temporarily disturbed areas shall be returned to original ground contours at project completion. Areas of fill that settle below the original ground contours over the monitoring period as a result of the project shall be brought back to original ground contours with native materials. If newly placed soil will cover or damage plants the area shall be reseeded and replanted.

(11) HAZARDOUS, TOXIC AND WASTE MATERIALS. Petroleum products, chemicals, fresh cement, sandblasted material, and chipped paint or other deleterious waste materials shall not be allowed to enter waters of the state. No wood treated with leachable preservatives shall be placed in the waterway. Machinery refueling is to occur off-site or in a confined designated area to prevent spillage into waters of the state. Project-related spills into water of the state or onto land with a potential to enter waters of the state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

(12) Turbidity Control: The following conditions relating to turbidity shall be observed:

a. Except as allowed in (b) or (c) below, the authorized work shall not cause turbidity of affected waters to exceed natural background turbidity by 10 percent, measured 100 feet downstream from the activity causing turbidity.

b. For projects in streams where the gradient is less than or equal to 2 percent (rise/run), monitoring shall take place at no less than 4-hour intervals during active, in-water work. Where erosion control measures specified in this general authorization have been implemented, the turbidity standard specified in (a) above may be exceeded for a maximum of 1 (one) monitoring interval per 24-hour work period.

c. For projects in streams where the gradient is greater than 2 percent (rise/run), monitoring shall take place at no less than 2-hour intervals during active, in-water work. Where erosion control measures specified in this general authorization have been implemented, the turbidity standard specified in (a) above may be exceeded for a maximum of 2 (two) hours.

d. For projects impacting streams, water quality monitoring points shall be established at an undisturbed site representing background conditions at least 100-feet upstream from the point of permitted work, and at a point 100-feet downstream from the point of permitted activity in the visible plume, if one is present. Other monitoring locations may be authorized by DSL if access is problematic. A turbidimeter is recommended for measuring; however, visual gauging is acceptable. If measured visually, turbidity that is visible over background is considered an exceedance of the standard.

e. The person(s) conducting the monitoring shall be responsible for immediately notifying the permit holder or the permit holder's on-site representative of any exceedance of the turbidity standard and shall keep a record of the exceedance. If a 10 percent exceedance of the background level occurs at 100 feet below the project site, turbidity control measures shall be improved or additional controls shall be implemented until the turbidity standard is met. Monitoring shall then continue at prescribed compliance intervals. If exceedances caused by the permitted activity occur during two consecutive measurements, the activity causing the turbidity shall stop until appropriate abatement techniques bring the project back into compliance.

(13) The authorization holder shall ensure that all applicable Department of Environmental Quality water quality requirements are adhered to and permits and certifications are obtained prior to commencing construction activities.

(14) The following erosion control measures (and others as appropriate) shall be observed:

a. Filter bags, sediment traps or catch basins, vegetative strips, berms, Jersey barriers, fiber blankets, bonded fiber matrices, geotextiles, mulches, wattles, sediment fences, or other measures used in combination shall be used to prevent movement of soil from uplands into waterways or wetlands;

b. An adequate supply of materials needed to control erosion must be maintained at the project construction site;

c. To prevent stockpile erosion, use compost berms, impervious materials or other equally effective methods, during rain events or when the stockpile site is not moved or reshaped for more than 48 hours;

d. Erosion control measures shall be inspected and maintained daily, or more frequently as necessary, to ensure their continued effectiveness and shall remain in place until all exposed soil is stabilized;

i. If monitoring or inspection shows that the erosion and sediment controls are ineffective, mobilize work crews immediately to make repairs, install replacements, or install additional controls as necessary.

ii. Remove sediment from erosion and sediment controls once it has reached 1/3 of the exposed height of the control.

e. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian or wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL.

f. Dredged or other excavated material shall be placed on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands.

Erosion control measures shall be maintained as necessary to ensure their continued effectiveness, until soils become stabilized. All erosion control structures shall be removed when project is complete and soils are stabilized and vegetated.

(15) Heavy equipment shall be operated from the bank and not placed in the stream unless otherwise approved by the Department as a part of the project plan.

(a) During trenching or excavation, the top layer of soil shall be separated from the rest of the excavated material and put back on top when the trench or pit is back-filled. If the native underlying soils are not used as bedding material, and a coarser, non-native soil or other material is used, preventative measures such as clay or concrete plugs shall be used so that underground hydraulic piping does not occur and dewater the site and adjacent wetlands.

(b) Frac out (a crack, or fracture, in the ground through which drill materials can escape to the waterbody) or the clean up associated with a frac out during horizontal directional drilling activities is not an authorized activity under the general authorization. If any frac out occurs all drilling shall cease and DSL shall be contacted immediately.

(16) The authorization holder shall ensure that nonstructural approaches to bank stabilization such as slope pull-back, willow mats, rock barbs, revegetation with localized native plant species, log and boulder deflectors, are utilized unless otherwise approved by Department. Where, riprap and/or other structural

techniques are unavoidable, they shall be used in combination with nonstructural approaches. Where riprap is used, the toe material shall be placed in an irregular pattern using large boulders or rock clusters. Only clean, durable rock shall be used as riprap. No concrete or asphalt shall be used.

(17) Riprap/rock sills shall be placed under these conditions:

- a) Only clean, erosion resistant rock from an upland source shall be used as riprap. No broken concrete or asphalt shall be used.
- b) Riprap rock shall be placed in a manner that does not increase the upland surface area.
- c) Riprap shall be placed in a way as to minimize impacts to the active stream channel.
- d) Gravel or filter fabric should be placed behind the riprap rock, including the toe trench rock, as a filter blanket.
- e) All riprap rock shall be placed, not dumped, from above the bank line.

(18) The authorization holder shall keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.

(19) Employees of the Department and all duly authorized representatives shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(20) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(21) The State of Oregon, and its officers, agents, and employees shall be held harmless from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

(22) The Department may add other project-specific conditions to the letter of authorization as necessary to meet the requirements of the general authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental impacts and will not result in long term harm to water resources of the state.

(23) The Department may, at any time, by notice to affected authorization holders revoke or modify any letter of authorization granted under this general authorization if it determines the conditions of the general authorization are insufficient to minimize individual or cumulative environmental impacts.

(24) The authorization holder is responsible for the activities of all contractors or other operators involved in project work covered by the letter of authorization.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800- 196.990

141-089-645

Violation of General Authorization; Enforcement

Violations of the terms and conditions of any general authorization are subject to administrative and/or legal action which may result in revocation of the authorization. The authorization holder is responsible for the activities of all contractors or other operators involved in work done at the site or under the authorization.

Stat. Auth.: ORS 196.850
Stats. Implemented: ORS 196.800- 196.990

141-089-650

Appeals; Expiration; Review of General Authorization

(1) An applicant whose application for the general authorization is determined by the Department to be ineligible or otherwise not qualified for this general authorization may obtain an informal review of the Department's decision through the alternative dispute resolution process resolution process described in OAR 141-085-0075. However, this is only opportunity to review the Department's decision and does not give the person a right to a contested case hearing.

(2) This general authorization shall be reviewed by the Department on or before January 1, 2011, at which time it shall be modified, reissued or rescinded. The review will include public notice and opportunity for public informational hearing. An approval issued prior to expiration of this General Authorization shall remain in effect until January 1, 2012.

(3) Any activities authorized by a letter of authorization issued prior to January 1, 2006 are authorized until the activity is completed or until January 1, 2012, whichever comes first. All conditions of issuance continue to be in force. Activities authorized by this General Authorization that are not completed by January 1, 2012, shall require the submittal of a new application in order to complete the proposed activities. However, a one time 90 day extension will be allowed by the Department, if the applicant provides the Department with a written Notice that states that the activities authorized by this General Authorization will be completed within 90 days of January 1, 2012. The Department shall acknowledge and approve in writing the one time 90 day extension.

Stat. Auth.: ORS 196.850
Stats. Implemented: ORS 196.800-196.990; ORS 390.805-390.925