

DEPARTMENT OF STATE LANDS

DIVISION 089

General Authorization for the Placement of Large Wood and Boulders (Expedited)

141-089-0350

Purpose and Applicability

This rule sets forth conditions under which an applicant may, without an individual removal-fill permit from the Department, place or remove certain material within waters of this state (including Essential Salmon Habitat as designated in OAR 141-102) for the purposes of fish habitat enhancement. An authorization from the Department is required prior to any person commencing an activity authorized by this general authorization. An applicant is required to submit a complete application on a form provided by the Department and must agree to the eligibility requirements (141-089-0355), mandatory requirements (141-089-0360), project guidelines (141-089-0365), and the conditions for issuance (141-089-0375). The terms and conditions of issuance must be stated in the authorization. The authorization is not transferable to another person.

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

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

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

(4) Applications for activities and/or projects, which qualify for this general authorization, are exempt from removal-fill permit fees as set forth in OAR 141-085-0064.

(5) 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, as well as other relevant criteria.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990

141-089-0355

Eligibility Requirements

In order to issue an authorization the Department must review each application to determine that the project is eligible and complies with the applicable mandatory requirements and project guidelines as described in this rule.

(1) To be eligible a project must:

(a) Be constructed for the purpose of improving fish habitat and consist of one of the following activities, as defined in 141-089-0360;

- (A) The placement of unanchored large wood,
 - (B) The placement of boulders to stabilize large wood,
 - (C) The placement of boulders to improve habitat complexity, or
 - (D) The placement of spawning gravel in conjunction with one of the above.
- (b) Be consistent with the following:
- (A) Most recent version of Oregon Aquatic Habitat Restoration and Enhancement Guide (Prepared for the Oregon Plan for Salmon and Watersheds) and Guide to Placing Large Wood in Streams (Prepared by the Oregon Department of Forestry and Oregon Department of Fish and Wildlife); and
 - (B) Oregon Department of Fish and Wildlife's requirements for upstream and downstream fish passage under ORS 509.580 to 509.645.
- (2) A project is not eligible for this general authorization if:
- (a) The project fails to meet any eligibility requirement, mandatory requirement (141-089-0360), or project guideline (141-089-0365).
 - (b) The project is located within a designated State Scenic Waterway or Federal Wild and Scenic Waterway.
 - (c) The project is located within an area that is tidally influenced.
 - (d) 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990

141-089-0360

Mandatory Requirements

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

- (1) The project may not use permanent anchoring including rebar, cabling, or keying into the streambank to meet stability criteria. Biodegradable manila or sisal rope may be used for temporary stabilization.
- (2) No project may cause more than a minimal adverse effect on navigation.
- (3) The project may not include construction of access roads within waters of this state or associated riparian areas. This includes grading or sloping the ground surface and temporarily placing rock or dirt in order to access the waterway. Operation of equipment across the surface of the ground with minimal tread disturbance or clearing of preexisting roads, skid roads, or similar constructed features is allowable.
- (4) The project design shall not cause the water to rise or be redirected in such a manner that it may result in any flooding, or other harmful impacts to any structures or substantial property outside of the project area.
- (5) The project may not convert wetlands to other waters, and the project may not have any negative impacts to wetlands.
- (6) When necessary to protect and conserve the water resources of this state, the Department may waive or modify any conflicting guidelines, mandatory requirements or conditions of this general authorization.

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

141-089-0365

Project Guidelines

The following activities are specifically allowed under this general authorization:

(1) Placement of large wood, including logs, trees and rootwads, in stream channels where large wood should naturally occur but is currently lacking due to past management practices or other conditions.

(a) Large wood placement must be for the purpose of increasing coarse sediment storage, habitat diversity and complexity, retaining gravel for spawning habitat, improving flow heterogeneity, providing long-term nutrient storage and substrate for aquatic macroinvertebrates, moderating flow disturbances, increasing retention of leaf litter, or providing refuge for fish during high flows.

(b) Large wood placement projects must rely on the size of the wood for stability, to the extent possible.

(c) Logs and trees shall not be removed from locations where they serve a valuable function or are wildlife trees. Use of decayed or fragmented wood found on the ground or partially sunken in the ground is not allowed.

(d) Log habitat structures must contain a minimum of two key wood pieces that meet minimum length and diameter requirements in relation to the stream size and slope. The addition of other large wood and coarse wood to the structures is permitted.

(A) Key pieces of wood must be intact, hard, and undecayed to partially decaying.

(B) The length of the key wood pieces, if the rootwad is still attached, must be at least one and one-half times the bankfull width (including the rootwad). If the rootwad is not attached, the length of the key wood piece must be at least twice the stream's bankfull width;

(C) The diameter of the key wood pieces must meet the following minimum thresholds:

(i) For streams with a bankfull width of 0-10 feet, the minimum diameter of wood shall be 10 inches and the slope of the stream segment shall not exceed 15%.

(ii) For streams with a bankfull width of 10-20 feet, the minimum diameter of wood shall be 16 inches and the slope of the stream segment shall not exceed 9%.

(iii) For streams with a bankfull width of 20-32 feet, the minimum diameter of wood shall be 18 inches and the slope of the stream segment shall not exceed 5%.

(iv) For streams with a bankfull width of 32-50 feet, the minimum diameter of wood shall be 22 inches and the slope of the stream segment shall not exceed 3%.

(v) For streams with a bankfull width of over 50 feet, no work is allowed under this general authorization.

(e) Wood may be repositioned in the stream as necessary to alleviate threats to public safety or substantial property damage, provided the habitat and resource

value of the wood is maintained in that stream segment. Any repositioning of wood must be done in accordance with the above criteria.

(2) Placement of boulders to stabilize large wood in order to provide resistance to downstream movement under the following circumstances:

(a) The volume of boulders used must be restricted to the minimum amount necessary to provide resistance to downstream movement for the large wood.

(b) Boulders must be sized appropriately for the stream. For stability, it is recommended that key boulders be a minimum of twice the diameter of the average of the ten largest naturally occurring boulders in the project stream reach (measured upstream and downstream of the project site). Smaller sizes should be used only if a shear stress analysis of the stream reach shows that a smaller boulder would be stable at high flows.

(c) Boulders and wood may not be combined to form barbs, to channelize stream flow, or to stabilize streambanks.

(3) Placement of boulders within stream channels where rock and boulders would naturally occur to retain substrate but are currently lacking is permitted, subject to the following criteria:

(a) Boulder placement must be for the purpose of increasing habitat diversity and complexity, improving flow heterogeneity, providing substrate for aquatic vertebrates, moderating flow disturbances, or providing refuge for fish during high flows by placing large boulders in stream beds where similar natural rock has been removed.

(b) The stream reach to be treated with boulders must meet the following criteria:

(A) The channel must have a slope of less than 10%;

(B) The riparian area must be intact and well-vegetated, including trees and shrubs where those species would naturally occur, or restoration and reestablishment of those conditions must be part of project;

(C) The streambed must consist of predominantly coarse gravel or larger sediments;

(D) The gravel depth must be less than 30 inches of gravel over bedrock in over 50% of the treatment area; and

(E) The total length of stream to be treated with boulder clusters is limited to 500 feet as measured in the middle of the stream from the first boulder upstream to the last boulder downstream. If the project is restoring multiple segments of the stream, the combination of all segments may not exceed 500 feet.

(c) Boulders may be placed according to the following criteria:

(A) Boulders must be sized appropriately for the stream.

(i) For stability, key boulders must be, to the extent practicable, a minimum of twice the diameter of the average of the 10 largest naturally occurring boulders in the project stream reach (measured upstream and downstream of the project site). Smaller sizes should be used only if a shear stress analysis of the stream reach shows that a smaller boulder would be stable at high flows.

(ii) Boulder size must be of a size sufficient to be stable under expected high flows (typically 25 year recurrence interval).

(B) Boulders shall be placed in patterns which replicate natural stream conditions and that do not substantially modify stream hydraulics. No boulders will be

placed to form weirs (e.g., step pools), barbs, dams, or for streambank stabilization or structural armoring of any kind.

(C) Individual boulder clusters may not exceed one-third of the active channel width and may not be placed on a single side of the stream. The boulder patterns must not be configured to shift the stream flow to a single flow pattern in the middle or to the side of the stream.

(D) Boulder clusters must have a minimum of a two-foot gap between clusters to allow adult and juvenile fish passage.

(E) Boulders shall not be placed in unstable aggrading or braided channels, nor in cascade habitat that are transport reaches.

(F) Coarse wood may be placed under the boulders to increase recruitment of sediment.

(G) Boulders must be machine-placed (no end dumping allowed).

(4) Placement of spawning gravel in stream channels where gravel would naturally occur but is currently lacking, subject to the following criteria:

(a) Spawning gravel must be for the purpose of improving spawning substrate by compensating for an identified loss of a natural gravel supply.

(b) The placement of gravel must be done in association with a current or past in-stream habitat restoration project.

(c) Gravel shall be made up of multiple sizes of material, with no more than 5% of the gravel being smaller than 0.25 inch and 10% of the gravel being larger than 4 inches.

(d) The gravel shall be washed, rounded (less than 25% fractured face), composed of hard durable particles resistant to weathering, and of a type similar to that which is found in the stream basin.

(e) The gravel shall come from a commercial source, or an upland source outside of the riparian area. The use of gravel from in-stream gravel bars is prohibited.

(f) All gravel must be washed prior to in-stream placement. No organic soils, silt, clay or soft friable particles may part of the gravel placement.

(g) No fabric or wire mesh may be used to hold the gravel in the stream. The placement of coarse wood to retain gravel is permitted.

(h) Gravel shall not be placed in pools, and shall not block or impede fish passage.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990

141-089-0370

Application Requirements; Public Notice Review Process

(1) An application for general authorization under this rule must be submitted on an application form available from the Department.

(2) The Department must receive a complete application before an authorization can be issued.

(a) A complete application is one that contains all the information required in the application provided by the Department.

(b) A complete application must include signatures from the following agencies, in the corresponding boxes on the application:

- (A) The appropriate District Fisheries Biologist of the Oregon Department of Fish and Wildlife; and
- (B) The local city or county planning department.
- (3) Within fifteen (15) calendar days of receipt of an application, the Department will review the application for eligibility, compliance with the mandatory requirements and project guidelines, and notify the applicant of approval, denial, or modification.
- (4) If the application is deemed incomplete, the Department shall notify the applicant, return the application and identify the missing, inaccurate or insufficient information.
- (5) If the Department determines the application does not meet all the requirements for this general authorization, but is complete and meets the requirements for the Fish Habitat Enhancement General Authorization (OAR 141-085-0100 through 0130), the Department will notify the applicant and process the application accordingly.
- (6) 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 this general authorization, the applicant may submit the project for processing and review as a general authorization or as an individual permit under 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

141-089-0375

Conditions of Issuance of General Authorization

All holders of a letter of authorization (authorization holder) must adhere to the following conditions of the general authorization:

- (1) The authorization holder must conduct all work in compliance with all local, state, or federal regulations pertaining to the project. All necessary approvals and permits must be obtained before commencing the project under this general authorization.
- (2) The authorization holder must 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 must keep a copy of the letter of authorization available at the work site whenever the activity is being conducted.
- (4) All work must be conducted to avoid or minimize water quality impacts and adverse effects to fish and wildlife.
- (5) The authorization holder must conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife (Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources), unless after consultation with ODFW, the Department approves a longer or alternative time period.
- (6) The authorization holder shall demonstrate that the activity will not interfere with fish passage, as required by the Oregon Department of Fish and Wildlife.
- (7) 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.
- (8) The authorization holder must not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office (SHPO). When previously unknown occurrences of archeological sites are discovered during construction, the authorization holder must immediately cease work at the discovery site and contact the Department and SHPO at (503) 986-0677.
- (9) The authorization holder must ensure that the authorized work does not interfere with secured tribal treaty rights and associated rights to access fishing grounds.
- (10) The authorization holder must ensure that the authorized work does not unreasonably interfere with or create a hazard to navigation.
- (11) The authorization holder must ensure that woody vegetation removal is limited to the minimum amount needed to complete the project, including construction access. If possible, woody vegetation that will sprout from cut stumps, and would otherwise be removed as part of the project, should be cut and allowed to re-establish once the project is complete.
- (12) Unless otherwise allowed under the Forest Practices Act, the following are not allowed within the waterway or within 50 feet on either side of the waterway: cutting or using standing trees, or disturbance or repositioning of downed wood. However:
 - (a) Trees may be felled for human safety, forest health reasons, or for temporary stream crossings. These trees may be incorporated as appropriate into the project;
 - (b) Trees up to 12 inches in diameter may be cut or pulled over only as necessary to provide safe access to the project site and to avoid impacts to larger trees or sensitive areas. These trees may be incorporated as appropriate into the project;
 - (c) Wood suspended over the stream may be repositioned to allow for greater interaction with the stream.
 - (d) Wood in the floodplain must remain in the floodplain although it may be temporarily moved during construction to allow for project construction.

(13) The authorization holder must ensure that areas disturbed in the course of completing the work are re-vegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site. Seed mixes that are certified free of noxious weeds and contain exotic species that will hold the soil and not persist can be used for initial site stabilization.

(14) Operation of heavy equipment in the streambed is not allowed except under the following circumstances:

(a) The streambed consists of bedrock, or no compaction will occur in the streambed and only minimal compaction will occur in the floodplain; or

(b) There is no surface flow in the channel; or

(c) Equipment cannot safely reach the channel work site due to steep and/or rugged terrain; or

(d) Where necessary to cross the stream to avoid springs, wetlands, or other sensitive areas; or

(e) To avoid or minimize disturbance of valuable riparian vegetation.

(15) Heavy equipment working in wetlands shall be placed on removable mats or pads. Following the removal of the mats or pads, the area shall be restored to pre-project conditions.

(16) The authorization holder must ensure that no petroleum products, chemicals or deleterious materials are allowed to enter waters of this state. Prior to entering wetlands or waterways all equipment must be cleaned and otherwise prepared to protect against the release of any petroleum products, chemicals or deleterious materials.

(17) Project-related spills that enter waters of this state or onto land with a potential to enter waters of this state must be reported to the Oregon Emergency Response System at 800-452-0311.

(18) 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.

(19) The authorization holder must ensure that erosion and sediment control measures are installed and functioning properly during all phases of the project that involve exposed or disturbed areas. The authorization holder is referred to the DEQ's "Erosion and Sediment Control Manual," April 2005. During construction, erosion and sediment control measures must be monitored to ensure that areas of failure are identified and repaired immediately.

(20) The authorization holder must ensure that the terms in the 401 Water Quality Certification (WQC), issued by DEQ in conjunction with a US Army Corps of Engineers 404 permit for the same project, are complied with (a copy of the 401 Water Quality Certification shall be retained on site).

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

(22) 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.

(23) The State of Oregon, and its officers, agents, and employees must 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.

(24) 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 this state.

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

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990

141-089-0380

Mandatory Reporting Requirement

Upon completion of the project, the authorization holder must provide a project completion report, including but not limited to the following:

- (1) Reporting to the Oregon Watershed Enhancement Board on Restoration Inventory Report forms provided by the Department; and,
- (2) Reporting to the Department any additional information necessary to determine compliance with the terms and conditions. The Department must receive this report no later than January 31st of each year that this general authorization is valid.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990

141-089-0385

Violation of General Authorization; Enforcement

Violations of the terms and conditions of this general authorization are subject to administrative and/or legal action including the imposition of civil penalties, 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

141-089-0390

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 the 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 will be reviewed in accordance with the provisions of ORS 196.850(5) on or before January 1, 2011. An approval issued prior to expiration of this General Authorization shall remain in effect until April 1, 2013.

Stat. Auth.: ORS 196.850

Stats. Implemented: ORS 196.800-196.990