

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Dept. of State Lands, Wetland and Waterway Conservation Division

141

Agency and Division

Administrative Rules Chapter Number

In the Matter of: The adoption of OAR 141-089-0350 to 0390 establishing a General Authorization for the Placement of Large Wood and Boulders (Expedited).

Rule Caption: Establishes an expedited permit for fish habitat improvement projects, including large wood and boulders.

Statutory Authority: ORS 196.850

Other Authority: None

Stats. Implemented: ORS 196.800 –196.990

Need for the Rule(s):

The placement of large wood, and in certain situations boulder clusters, are important methods for improving fish habitat, especially in locations where in-stream structure is lacking. These activities are supported by the Oregon Plan for Salmon and Watersheds and have been funded by various state and federal resource agencies including the Oregon Watershed Enhancement Board (OWEB) and the Oregon Department of Fish and Wildlife (ODFW).

Currently these projects are either processed through an existing General Authorization for Fish Habitat Enhancement that can take up to 40 days to be reviewed or as an Individual Permit that can take up to 120 days. Both of these processes require more detail in an application and processing than is necessary for these relatively simple low impact types of projects. This can, at times, be a hurdle that may discourage landowners or agencies from pursuing these activities, even though they provide benefits to the resource. The existing process and requirements may require expenditure of funds on complicated permit requirements that could otherwise be spent on improving habitat conditions through the project. As a majority of these projects are grant funded, the time required preparing and processing applications can lead to delays in implementation and the possible loss of grant funding.

Based on requests from various affected parties, including OWEB, ODFW and various watershed enhancement groups, the Department has been looking for a method to facilitate permitting of projects that benefit the resource, have minimal effects, and are designed using accepted practices. The proposed process is intended to provide a shorter, less complicated process that will remove or reduce the existing regulatory hurdle for these types of activities. This temporary rule is necessary to test and evaluate the proposed process to ensure that when permanent rules are adopted they include the appropriate standards and meet the needs of the applicants, agency, and resources.

Documents Relied Upon, and where they are available:

The following documents are referenced in or were used to develop the applicable criteria in these rules.

- *General Authorization for Fish Habitat Enhancement* (OAR 141-089-0100 to 120). Available by contacting DSL or online at the Secretary of States website [http://arcweb.sos.state.or.us/rules/OARS\\_100/OAR\\_141/141\\_089.html](http://arcweb.sos.state.or.us/rules/OARS_100/OAR_141/141_089.html)
- *A Guide to Placing Large Wood in Streams* (Prepared by the Oregon Department of Forestry and Oregon Department of Fish and Wildlife, May 1995). Available by contacting ODFW or online at <http://www.dfw.state.or.us/lands/>

- *Oregon Aquatic Habitat Restoration and Enhancement Guide* (Prepared for the Oregon Plan for Salmon and Watersheds, May 1999). Available by contacting OWEB or online at <http://www.oregon.gov/OWEB/docs/pubs/habguide99-complete.pdf>

Fiscal and Economic Impact, including Statement of Cost of Compliance:

This new General Authorization is a subset of existing regulation and processes. Therefore it will not lead to any additional burden on the regulated public or the Department. The intent of this rulemaking is to make the process easier and less time consuming for both applicants and staff. Applicants typically include state agencies, watershed groups, and private landowners. Based on the results of the pilot test this General Authorization and its associated process will benefit applicants by leading to an increase in certainty of the regulatory outcome and a decrease in time, effort, and expense to go through the process. There will also be savings for the Department in processing these applications for this General Authorization when compared to the existing process. It is estimated that DSL will receive 50 to 75 applications per year under this new General Authorization. Based on this estimate, applicants stand to save between \$8,000 and \$12,000 in staff time a year on time spent obtaining an authorization. For that same number of applications DSL should realize between \$2,000 and \$6,000 in staff savings per year processing these applications.

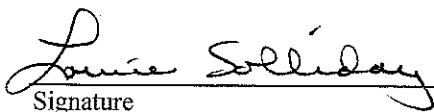
How were small businesses involved in the development of this rule?

Small businesses were not directly involved in the development of this rule. There is representation of small businesses in the "Removal-Fill Technical Advisory Committee" (TAC) that has reviewed and commented on the development of these rules.

Administrative Rule Advisory Committee consulted?:

Yes. The Department meets regularly (usually monthly) with a TAC and this committee was briefed on and participated in development of the rule. During 2007 the Department also ran a 6-month pilot of this rule under temporary rulemaking (OAR 141-089-0450 to 0480). Following that pilot test we met with the pilot group discussed the rule and solicited input prior to undertaking this permanent rulemaking effort.

If not, why?:

  
Signature

Louise Solliday, Director  
Printed name

1/11/08  
Date