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## PERMANENT ADMINISTRATIVE ORDER

### DSL 77-2018

CHAPTER 141  
DEPARTMENT OF STATE LANDS

**FILED**

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ARCHIVES DIVISION  
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& LEGISLATIVE COUNSEL

FILING CAPTION: Revisions to the rules for the General Authorization for Recreational Placer Mining in ESH.

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#### RULES:

141-089-0820, 141-089-0823, 141-089-0825, 141-089-0830, 141-089-0835

AMEND: 141-089-0820

RULE TITLE: Non-motorized In-stream Placer Mining in ESH – Purpose

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: 141-089-0820 modifying the rule title and purpose, eliminating references to the moratorium

#### RULE TEXT:

These rules set forth conditions under which a person may, without an individual removal-fill permit from the Department, fill, remove, and move material in waters of this state for the purpose of in-stream placer mining using only non-motorized methods or activities, including gravity dredge or siphon dredge, within areas designated as Essential Indigenous Anadromous Salmonid Habitat (ESH) that is not designated as State Scenic Waterway (SSW).

STATUTORY/OTHER AUTHORITY: ORS 196.600 - 196.692, 196.795 - 196.990

STATUTES/OTHER IMPLEMENTED: ORS 196.600 - 196.692, 196.795 - 196.990

ADOPT: 141-089-0823

RULE TITLE: Non-motorized In-stream Placer Mining within ESH - Definitions

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Defining terms

RULE TEXT:

For the purposes of OAR 141-089-0820 through 141-089-0835, the following definitions are used in addition to those found in ORS 196.600 to 196.990 and OAR 141-085-0510.

- (1) "Completion of the activity" means the responsible party will not return or has not returned to the activity location to resume the activity within 24 hours.
- (2) "Gravity Dredge" means a device with a suction nozzle and hose for conveyance of streambed material for which suction is created by gravity. A gravity dredge does not have an auxiliary power source.
- (3) "Motorized Equipment" means equipment or devices powered by internal combustion, hydraulics, pneumatics, electricity, or mechanical means.
- (4) "In-stream" means below the ordinary high water line of a stream and within the wet perimeter and any adjacent non-vegetated dry gravel bar.
- (5) "Placer Mining" means to search or explore for samples of gold, silver or other precious metals by removing, filling or moving material from or within the bed of a stream.
- (6) "Siphon Dredge" means a device with a suction nozzle and hose for conveyance of streambed material for which suction is created by siphon action. A siphon dredge does not have an auxiliary power source.

STATUTORY/OTHER AUTHORITY: ORS 196.600-196.692, 196.795-196.990

STATUTES/OTHER IMPLEMENTED: ORS 196.600-196.692, 196.795-196.990, SB 3

AMEND: 141-089-0825

RULE TITLE: Non-motorized In-stream Placer Mining in ESH - Eligibility Requirements

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Modifying the rule title and eligibility requirements, eliminating provisions related to limiting the number of permits and authorizations issued

RULE TEXT:

To be eligible, a project must adhere to the following:

- (1) Purpose. The activity is for the specific purpose of non-motorized in-stream placer mining within ESH.
- (2) Not within a State Scenic Waterway. The activity may not occur within SSW.
- (3) Preceding Year Activity Report. If the person listed on the notification was authorized under this GA or the GA for Recreational Placer Mining in ESH during the preceding calendar year, a completed In-stream Placer Mining Report for that preceding calendar year must have been submitted to the Department by the last business day in February of the current calendar year.

STATUTORY/OTHER AUTHORITY: ORS 196.600 - 196.692, 196.795 - 196.990

STATUTES/OTHER IMPLEMENTED: ORS 196.600 - 196.692, 196.795 - 196.990

AMEND: 141-089-0830

RULE TITLE: Non-motorized In-stream Placer Mining in ESH - Authorized Activities

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: modifying the rule title and authorized activities

RULE TEXT:

Non-motorized in-stream placer mining within ESH that fills, removes, or moves cumulatively less than twenty-five (25) cubic yards of material annually. Material filled, removed, or moved includes the construction and removal of temporary dams.

STATUTORY/OTHER AUTHORITY: ORS 196.600 - 196.692, 196.795 - 196.990

STATUTES/OTHER IMPLEMENTED: ORS 196.600 - 196.692, 196.795 - 196.990

AMEND: 141-089-0835

RULE TITLE: Non-motorized In-stream Placer Mining in ESH - Activity-Specific Conditions

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Modifying the rule title and activity-specific conditions.

RULE TEXT:

- (1) General Conditions Apply. Activities eligible for this General Authorization must adhere to the general conditions in OAR 141-089-0650 except for subsections (8), (9), and (14). The following activity-specific conditions also apply:
- (2) Prevent Fish Stranding. Upon completion of the activity at any given location, the responsible party must fill all furrows, potholes and other depressions created by the activity.
- (3) Level All Piles. Upon completion of the activity at any given location, the responsible party must level all piles created by the activity.
- (4) Wet Perimeter. The activity must be confined to the wet perimeter.
- (5) Disturbance of the Bank and Riparian Vegetation. The activity must not disturb the bank. The activity may not undercut or erode banks or remove or disturb boulders, rooted vegetation, embedded woody material, or other habitat structure on the bank. The activity may not disturb or destroy woody vegetation on the bank for the creation of new access routes.
- (6) Fish Passage. The activity shall not divert a waterway or obstruct fish passage.
- (7) Minimization of Impounded Water. The activity may impound only the minimal area of water necessary to operate the dredge under the following conditions:
  - (a) Any temporary dam shall not extend across more than 75% of the width of the surface water at the time the activity occurs;
  - (b) Any temporary dam shall be consistent with ODFW requirements set forth in ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040;
  - (c) Any temporary dam shall be removed immediately upon completion of the activity.
- (8) No Disturbance of Stream Structure. The activity shall not move boulders, logs, stumps or other woody material from the bed, except for movement by hand and non-motorized equipment. All boulders, logs, stumps and other woody material moved must be returned to its original position upon completion of the activity.
- (9) Dredge Intake Nozzle and Hose Limited. Any gravity or siphon dredge used during the activity shall not have an intake nozzle or hose that has an inside diameter exceeding four inches.
- (10) Annual Report Required. The responsible party must maintain a monitoring log and record the date, location, nozzle diameter, hose diameter, and amount of material disturbed for each day of operation. By February 28 of each year, the responsible party must submit to the Department an annual report, on a form provided by the Department, which states the estimated amount of material that was filled, removed or moved and the mining locations, by latitude and longitude, in each specific waterway during the preceding calendar year. If no jurisdictional activity was conducted, the report must be submitted reporting zero cubic yards for the year.
- (11) Responsible Party Must be Present. Alternate persons may operate equipment, provided the responsible party listed on the authorization is present at all times during the activity.
- (12) Limited to One Suction Device. Only one gravity or siphon dredge, one hose, and one nozzle may be operated at any given time under this authorization.
- (13) Motorized Equipment Not Allowed. Operation of any motorized equipment is prohibited below ordinary high water.
- (14) Operation Limited to Locations Listed. The activity may be conducted at the locations listed on the authorization only. Written requests to modify locations for this authorization will be reviewed within 14 days of the request, upon which time the Department may issue a revised authorization.
- (15) Obstructions to Navigation and Recreation Prohibited. In no circumstance shall anchoring or operation of suction dredges interfere with navigation or cause a safety hazard to public recreation.

(16) Avoid Mussels. Mining equipment, including suction dredges and in-water non-motorized mining equipment must not be used where live freshwater mussels are present. Operations must be relocated if live mussels are encountered during excavation.

(17) Avoid Lamprey. Mining equipment, including suction dredges and in-water non-motorized mining equipment must not be used where Pacific Lamprey adults or larvae are present. Operations must be relocated if lamprey are encountered during excavation. If lamprey larvae are found, the operator must salvage the larvae by sifting through tailings and returning salvaged larvae to the stream away from mining activity. The operator may not resume mining operations in a location where larvae have been found, even after salvaging larvae.

STATUTORY/OTHER AUTHORITY: ORS 196.600 - 196.692, 196.795 - 196.990

STATUTES/OTHER IMPLEMENTED: ORS 196.600 - 196.692, 196.795 - 196.990