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CHAPTER 141

DEPARTMENT OF STATE LANDS

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& LEGISLATIVE COUNSEL

FILING CAPTION: Amending administrative rules to establish fees for the removal-fill regulatory program.

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RULES:

141-085-0510, 141-085-0545, 141-089-0635, 141-090-0032, 141-093-0105, 141-093-0120

AMEND: 141-085-0510

NOTICE FILED DATE: 04/24/2025

RULE SUMMARY: This rule is being amended to remove definitions that will no longer be applicable pursuant to the amendment of OAR 141-085-0545.

CHANGES TO RULE:

141-085-0510

Definitions ¶¶

The following definitions are used in addition to those in ORS 196.600 to 196.990.¶¶

- (1) "Applicant" means a landowner, a person authorized by a landowner to conduct a removal or fill activity, or a person that proposes a removal or fill activity for construction or maintenance of a linear facility.¶¶
- (2) "Aquatic Life and Habitats" means the aquatic environment including all fish, wildlife, amphibians, plants and other biota dependent upon environments created and supported by the waters of this state. Aquatic life includes communities and species populations that are adapted to aquatic habitats for at least a portion of their life.¶¶
- (3) "Aquatic Resources of Special Concern" means waters of this state that provide functions, values and habitats that are limited in quantity because they are naturally rare or have been disproportionately lost due to prior impacts. These include alkali wetlands and lakes, bogs, cold water habitat, fens, hot springs, interdunal wetlands, kelp beds, mature forested wetlands, native eelgrass beds, off-channel habitats (alcoves and side channels), ultramafic soil wetlands, vernal pools, wet prairies, wooded tidal wetlands, and others as determined by the Department.¶¶
- (4) "Artificial Means" means the purposeful movement or placement of material by humans and/or their machines.¶¶
- (5) "Authorization" means an individual permit, general authorization, general permit or emergency authorization.¶¶
- (6) "Bankfull Stage" means the two-year recurrence interval flood elevation.¶¶
- (7) "Baseline Conditions" means the ecological conditions, wetland functions and values and the soils and hydrological characteristics present at a site before any change by the applicant is made.¶¶
- (8) "Basin" means one of the eighteen (18) Oregon drainage basins identified by the Oregon Water Resources

Department as shown on maps published by that agency.¶¶

(9) "Beds" means:¶¶

(a) For the purpose of OAR 141-089, the land within the wet perimeter and any adjacent non-vegetated dry gravel bar; and¶¶

(b) For all other purposes, "beds" means that portion of a waterway that carries water when water is present.¶¶

(10) "Beds or Banks" means the physical container of the waters of this state, bounded on freshwater bodies by the ordinary high water line or bankfull stage, and in tidal bays and estuaries by the limits of the highest measured tide. The "bed" is typically the horizontal section and includes non-vegetated gravel bars. The "bank" is typically the vertical portion.¶¶

(11) "Buffer" means an area immediately adjacent to or surrounding a water of this state that is set aside to protect the water of this state from conflicting adjacent land uses and to support ecological functions. The buffer area may include upland, wetland, or other waters.¶¶

(12) "Channel" means a natural (perennial or intermittent stream) or human made (e.g., drainage ditch) waterway that periodically or continuously contains moving water and has a defined bed and bank that serve to confine the water.¶¶

(13) "Channel Relocation" means a change in location of a channel in which a new channel is dug and the flow is diverted from the old channel into the new channel.¶¶

(14) "Coastal Zone" means the area lying between the Washington border on the north to the California border on the south, bounded on the west by the extent of this state's jurisdiction as recognized by federal law, and the east by the crest of the coastal mountain range, excepting:¶¶

(a) The Umpqua River basin, where the coastal zone extends to Scottsburg;¶¶

(b) The Rogue River basin, where the coastal zone extends to Agness; and¶¶

(c) The Columbia River basin, where the coastal zone extends to the downstream end of Puget Island.¶¶

(15) "Coastal Zone Certification Statement" means a signed statement by the applicant or an authorized agent indicating that the proposed project will be undertaken in a manner consistent with the applicable enforceable policies of the Oregon Coastal Management Program.¶¶

~~(16) "Commercial Operator" means any person undertaking a project having financial profit as a goal.¶¶~~

~~(17)~~ "Compensatory Mitigation (CM)" means activities conducted by a permittee or third party to create, restore, enhance or preserve the functions and values of the waters of this state to compensate for the removal-fill related adverse impacts of project development to waters of this state or to resolve violations of ORS 196.800 to 196.905. Compensatory mitigation for removal-fill activities does not affect permit requirements of other state departments.¶¶

~~(18)~~ "Compensatory Non-Wetland Mitigation (CNWM)" means activities conducted by a permittee or third party to replace non-wetland water functions and values through enhancement, creation, restoration or preservation to compensate for the adverse effects of project development or to resolve violations of ORS 196.600 to 196.905.¶¶

~~(19)~~ "Compensatory Wetland Mitigation (CWM)" means activities conducted by a permittee or third party to create, restore or enhance wetland and tidal waters functions and values through enhancement, creation, restoration or preservation to compensate for the adverse effects of project development or to resolve violations of ORS 196.600 to 196.905.¶¶

~~(20)~~ "Comprehensive Plan" means a generalized, coordinated land use map and associated regulations and ordinances of the governing body of a local government.¶¶

~~(24)~~ "Condition" refers to the state of a water's naturalness or ecological integrity.¶¶

~~(22)~~ "Converted Wetlands" means agriculturally managed wetlands that, on or before June 30, 1989, were brought into commercial agricultural production by diking, draining, leveling, filling or any similar hydrologic manipulation and by removal or manipulation of natural vegetation, and that are managed for commercial agricultural purposes. "Converted wetlands" does not include any stream, slough, ditched creek, spring, lake or any other waters of this state that are located within or adjacent to a converted wetland area.¶¶

~~(23)~~ "Cowardin" means Cowardin, L. M., V. Carter, F. C. Golet, E. T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States, U. S. Department of the Interior, Fish and Wildlife Service, Washington, D.C.¶¶

~~(24)~~ "Creation" means to convert an upland area that has never been a water of this state to a water of this state.¶¶

~~(25)~~ "Credit" means the measure of the increase in the functions and values of the water resources of this state achieved at a mitigation site.¶¶

~~(26)~~ "Day of Violation" means the first day and each day thereafter on which there is a failure to comply with any provision of the Removal-Fill Law, ORS 196.600 through 196.990, or rules adopted by the Department, or any order or authorization issued by the Department.¶¶

~~(27)~~ "Deep Ripping, Tiling and Molding" refers to certain specific mechanical methods used to promote subsurface

drainage of agricultural wetlands.¶

(287) "Degraded" refers to a water of this state with diminished functions and values. For a wetland, degradation must include hydrologic manipulation (such as diking, draining, or filling) that demonstrably interferes with the normal functioning of wetland processes.¶

(298) "Department" means the Oregon Department of State Lands and the Director or designee.¶

(3029) "Ditch" means a manmade water conveyance channel. Channels that are manipulated streams are not considered ditches.¶

(310) "Dredging" means removal of bed material using other than hand-held tools.¶

(321) "Ecologically or Environmentally Preferable" means compensatory mitigation that has a higher likelihood of replacing functions and values or improving water resources of this state.¶

(332) "Emergency" means natural or human-caused circumstances that pose an immediate threat to public health, safety or substantial property including crop or farmland.¶

(343) "Enhancement" means to improve the condition and increase the functions and values of an existing degraded wetland or other water of this state.¶

(354) "Erosion-Flood Repair" means the placement of riprap or any other work necessary to protect existing facilities and land from flood and high stream flows, in accordance with these regulations.¶

(365) "Essential Indigenous Anadromous Salmonid Habitat (ESH)" means the streams designated pursuant to ORS 196.810 that are necessary to prevent the depletion of indigenous anadromous salmonid species during their life history stages of spawning and rearing, and any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream.¶

(376) "Estuary" means:¶

(a) For waters other than the Columbia River, the body of water from the ocean to the head of tidewater that is partially enclosed by land and within which salt water is usually diluted by fresh water from the land, including all associated estuarine waters, tidelands, tidal marshes and submerged lands; and¶

(b) For the Columbia River, all waters from the mouth of the river up to the western edge of Puget Island, including all associated estuarine waters, tidelands, tidal marshes and submerged lands.¶

(387) "Extreme Low Tide" means the lowest estimated tide.¶

(398) "Fill" means the total of deposits by artificial means equal to or exceeding 50 cubic yards or more of material at one location in any waters of this state. However, in designated ESH areas (OAR 141-102) and in designated Scenic Waterways (OAR 141-100) "fill" means any amount of deposit by artificial means.¶

(4039) "Food and Game Fish" means those species identified under ORS 506.011, 506.036 or 496.009.¶

(410) "Forestland" means the same as used in the Forest Practices Act and rules (ORS 527.610 to 527.992); land which is used for the commercial growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.¶

(421) "Functions and Values" are those ecological characteristics or processes associated with a water of this state and the societal benefits derived from those characteristics. The ecological characteristics are "functions," whereas the associated societal benefits are "values."¶

(432) "Habitat Restoration" means the return of an ecosystem from a disturbed or altered condition to a close approximation of its ecological condition prior to disturbance.¶

(443) "Highest Measured Tide" means the highest tide projected from actual observations within an estuary or tidal bay (see OAR 141-085-0515).¶

(454) "Hydrogeomorphic Method (HGM)" means the wetland classification based on a wetland's location in the landscape and the sources and characteristics of water flow defined in Adamus, P.R.2001.Guidebook for hydrogeomorphic (HGM)-based assessment of Oregon wetland and riparian sites: Statewide classification and profiles. Oregon Division of State Lands, Salem, OR.¶

(465) "Independent Utility" as used in the definition of "project," means that the project accomplishes its intended purpose without the need for additional phases or other projects requiring further removal-fill activities.¶

(476) "In-Lieu Fee Mitigation (ILF)" means a compensatory mitigation program used to compensate for reasonably expected adverse impacts of project development on waters of this state with fees paid by the applicant to an ILF sponsor, as approved by the Department.¶

(487) "Interagency Review Team (IRT)" is an advisory committee to the Department on mitigation banks and other compensatory mitigation projects.¶

(498) "Intermittent Stream" means any stream which flows during a portion of every year and which provides spawning, rearing or food-producing areas for food and game fish.¶

(5049) "Large Woody Debris" means any naturally downed wood that captures gravel, provides stream stability or provides fish habitat, or any wood placed into waters of this state as part of a habitat improvement or conservation project.¶

(510) "Legacy Credits" means credits from a mitigation bank, in-lieu fee, advance mitigation project, or outlined for use in advance aquatic resource plan that has been approved, or in process of approval, prior to April 1, 2019.

For a mitigation bank or in-lieu fee project to be considered in process of approval, the Department or the United States Army Corps of Engineers must have determined a Mitigation Bank Prospectus to be complete prior to April 1, 2019 and a draft Mitigation Banking Instrument to be complete before April 1, 2020. For an advance mitigation project, the Department must have issued a permit by April 1, 2019 recognizing advance credits. For an advance aquatic resource plan a complete plan must have been submitted to the Department prior to April 1, 2019 and a Final Order issued by April 1, 2020.¶¶

(521) "Legally Protected Interest" means a claim, right, share or other entitlement that is protected under state or federal law. A legally protected interest includes, but is not limited to, an interest in property.¶¶

(532) "Linear Facility" means any railway, highway, road, pipeline, water or sewer line, communication line, overhead or underground electrical transmission or distribution line, or similar facility.¶¶

(543) "Listed Species" means any species listed as endangered or threatened under the federal Endangered Species Act (ESA) and/or any species listed as endangered or threatened by the State of Oregon.¶¶

(554) "Locally Important" means having a high level of both function and value, as determined by the function and value assessment method being applied, or as a result of the Department's review of public comments or the Department's investigations.¶¶

(565) "Location" means the entire area where the project is located.¶¶

(576) "Maintenance" means the periodic repair or upkeep of a structure in order to maintain its original use. "Maintenance" includes a structure being widened by no more than twenty percent of its original footprint at any specific location in waters of this state if necessary to maintain its serviceability. "Maintenance" also includes removal of the minimum amount of sediment either within, on top of or immediately adjacent to a structure that is necessary to restore its serviceability, provided that the spoil is placed on upland.¶¶

(587) "Material" means rock, gravel, sand, silt and other inorganic substances and large woody debris, removed from waters of this state and any materials, organic or inorganic, used to fill waters of this state.¶¶

(598) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order:¶¶

(a) Avoiding the effect altogether by not taking a certain action or parts of an action;¶¶

(b) Minimizing effects by limiting the degree or magnitude of the action and its implementation;¶¶

(c) Rectifying the effect by repairing, rehabilitating or restoring the affected environment;¶¶

(d) Reducing or eliminating the effect over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures; and¶¶

(e) Compensating for the effect by creating, restoring, enhancing or preserving substitute functions and values for the waters of this state.¶¶

(6059) "Mitigation Bank" or "Bank" means a site created, restored, enhanced or preserved in accordance with ORS 196.600 to 196.655 to compensate for unavoidable adverse impacts to waters of this state due to activities which otherwise comply with the requirements of ORS 196.600 to 196.905.¶¶

(610) "Mitigation Bank Instrument (MBI)" means the legally binding and enforceable agreement between the Department and a mitigation bank sponsor that formally establishes the mitigation bank and stipulates the terms and conditions of the mitigation bank's construction, operation and long-term management.¶¶

(621) "Mitigation Bank Prospectus" or "Prospectus" means the preliminary proposal prepared by a mitigation bank sponsor describing a proposed bank.¶¶

(632) "Mitigation Bank Sponsor" or "Sponsor" means a person or single legal entity that has the authority and responsibility to fully execute the terms and conditions of a mitigation bank instrument.¶¶

(643) "Navigational Servitude" means activities of the federal government that directly result in the construction or maintenance of congressionally authorized navigation channels.¶¶

(654) "Non-Motorized Methods or Activities" are those removal-fill activities within ESH that are completed by hand and are not powered by internal combustion, hydraulics, pneumatics or electricity. Hand-held tools such as wheelbarrows, shovels, rakes, hammers, pry bars and manually operated cable winches are examples of common non-motorized methods.¶¶

(665) "Non-Water Dependent Uses" means uses that do not require location on or near a waterway to fulfill their basic purpose.¶¶

(676) "Non-Wetland Waters" means waters of this state other than wetlands, including bays, intermittent streams, perennial streams, lakes and all other regulated waters.¶¶

(687) "Ocean Renewable Energy" means electricity that is generated through the conversion of energy contained in the natural properties of the ocean, including but not limited to energy contained in waves and swells, the tides and currents, ocean temperature and salinity gradients; and, ocean offshore wind power.¶¶

(698) "Ocean Renewable Energy Facility" means any energy conversion technology or device that is used as a necessary component of a research project, demonstration project or commercial operation to generate ocean renewable energy, including but not limited to all buoys, anchors, energy collectors, cables, control and transmission lines, and other equipment necessary or useful to the project or operation.¶¶

(7069) "Office of Administrative Hearings" means the state agency unit that provides Administrative Law Judges to conduct contested case proceedings.¶¶

(710) "Ordinary High Water Line (OHWL)" means the line on the bank or shore to which the high water ordinarily rises. The OHWL excludes exceptionally high water levels caused by large flood events (e.g., 100-year events).¶¶

(721) "Oregon Rapid Wetland Assessment Protocol (ORWAP)" is a method for rapidly assessing wetland functions and values (as well as other attributes) in all wetland types throughout Oregon.¶¶

(732) "Payment In-Lieu Mitigation" means compensatory mitigation for waters of this state that is fulfilled by using funds paid to the Department. The payment in-lieu program is not approved to compensate for impacts to waters of the United States.¶¶

(743) "Perennial Stream" means a stream that has continuous flow in parts of its bed all year long during years of normal precipitation.¶¶

(754) "Person" means a person or a public body, as defined in ORS 174.109; the federal government, when operating in any capacity other than navigational servitude or any other legal entity.¶¶

(765) "Plowing" means all forms of tillage and similar physical means for the breaking up, cutting, turning over and stirring of soil to prepare it for planting crops. Plowing does not include deep ripping or redistribution of materials in a manner that changes any waters of this state to upland.¶¶

(776) "Practicable" means capable of being accomplished after taking into consideration cost, existing technology and logistics with respect to the overall project purpose.¶¶

(787) "Preservation" means to permanently protect waters of this state having exceptional ecological features.¶¶

~~(79) "Private Operator" means any person undertaking a project for an exclusively non-income-producing and nonprofit purpose.¶¶~~

~~(808)~~ "Project" means the primary development or use, having independent utility, proposed by one person. A project may include more than one removal-fill activity.¶¶

~~(8179)~~ "Project Site" means the geographic area upon which the project is being proposed.¶¶

(820) "Prospecting" means to search or explore for samples of gold, silver or other precious minerals, using non-motorized methods; by filling, removing or moving by artificial means less than one cubic yard of material at any one individual site; and, cumulatively, not more than five cubic yards of material from within the bed or wet perimeter of any single ESH stream in a single year.¶¶

(831) "Public Body" as used in the statutes of this state means state government bodies, local government bodies and special government bodies (ORS 174.109).¶¶

(842) "Public Use" means a publicly owned project or a privately owned project that is available for use by the public.¶¶

(853) "Push-Up Dam" means a berm of streambed material that is excavated or bulldozed (i.e., pushed-up) from within the streambed itself and positioned in the stream in such a way as to hold or divert water in an active flowing stream. The push-up dam may extend part way or all the way across the stream. Push-up dams are most frequently used to divert water for irrigation purposes associated with agricultural production including livestock watering. Push-up dams are reconstructed each water-use season; high water usually flattens or breaches them; and equipment is used to breach or flatten them at the close of the water-use season.¶¶

(864) "Reasonably Expected Adverse Effect" and "Adverse Impact" means the direct or indirect, reasonably expected or predictable results of project development upon waters of this state including water resources, navigation, fishing and public recreation uses.¶¶

(875) "Reconstruction" means to rebuild or to replace the existing structure in-kind. "Reconstruction" includes a structure being widened by no more than twenty percent of its original footprint at any specific location in waters of this state.¶¶

(886) "Recreational Placer Mining" means to search or explore for samples of gold, silver or other precious minerals by removing, filling or moving material from or within the bed of a stream, using non-motorized equipment or a motorized surface dredge having an intake nozzle with an inside diameter not exceeding four inches and a muffler meeting or exceeding factory-installed noise reduction standards.¶¶

(897) "Reference Site" means a site or sites that represent the desired future characteristics and condition to be achieved by a compensatory mitigation plan.¶¶

~~(9088)~~ "Removal" means the taking of more than 50 cubic yards of material (or its equivalent weight in tons) in any waters of this state in any calendar year; or the movement by artificial means of an equivalent amount of material on or within the bed of such waters, including channel relocation. However, in designated ESH areas (OAR 141-102) and in designated Scenic Waterways (OAR 141-100) the 50-cubic-yard minimum threshold does not apply.¶¶

(891) "Removal-Fill Site" means the specific point where a person removes material from and/or fills any waters of this state. A project may include more than one removal-fill site.¶¶

(920) "Restoration" means to reestablish a former water of this state.¶¶

(931) "Riprap" means facing a bank with rock or similar substance to control erosion.¶¶

(942) "Serviceable" means capable of being used for its intended purpose.¶¶

(953) "Service Area" means the boundaries set forth in a mitigation bank instrument that include one or more watersheds identified on the United States Geological Survey, Hydrologic Unit Map -1974, State of Oregon, for which a mitigation bank provides credits to compensate for adverse effects from project developments to waters of this state. Service areas for mitigation banks are not mutually exclusive.¶¶

(964) "State Scenic Waterway (SSW)" means a river or segment of river or lake that has been designated as such in accordance with Oregon Scenic Waterway Law (ORS 390.805 to 390.995).¶¶

(975) "Stream Function Assessment Method" is a method for assessing functions and values of waters of this state that flow in channels.¶¶

(986) "Temporal Loss" means the loss of the functions and values of waters of this state that occurs between the time of the impact and the time of their replacement through compensatory mitigation.¶¶

(997) "Temporary Impacts" are adverse impacts to waters of this state that are rectified within 24 months from the date of the initiation of the impact.¶¶

(10098) "Territorial Sea" means the waters and seabed extending three geographical miles seaward from the coastline in conformance with federal law.¶¶

(10199) "Territorial Sea Plan" means the plan for Oregon's territorial sea.¶¶

(1020) "Tidal Waters" are the areas in estuaries, tidal bays and tidal rivers located between the highest measured tide and extreme low tide (or to the elevation of any eelgrass beds, whichever is lower), that is flooded with surface water at least annually during most years. Tidal waters include those areas of land such as tidal swamps, tidal marshes, mudflats, algal and eelgrass beds and are included in the Estuarine System and Riverine Tidal Subsystem as classified by Cowardin.¶¶

(1031) "Voluntary" means activities undertaken by a person of their own free will, and not as a result of any legal requirement of the Removal-fill Law (ORS 196.600-196.990).¶¶

(1042) "Violation" means removing material from or placing fill in any of the waters of this state in a manner that is inconsistent with any provision of the Removal-Fill Law (ORS 196.600 through 196. 990), rules adopted by the Department, or any order or authorization issued by the Department.¶¶

(1053) "Water Quality" means the measure of physical, chemical and biological characteristics of water as compared to Oregon's water quality standards and criteria set out in rules of the Oregon Department of Environmental Quality and applicable state law.¶¶

(1064) "Water Resources" includes not only water itself but also aquatic life and habitats therein and all other natural resources in and under the waters of this state.¶¶

(1075) "Waters of This State" means all natural waterways, tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands, that portion of the Pacific Ocean that is in the boundaries of this state, all other navigable and non-navigable bodies of water in this state and those portions of the ocean shore, as defined in ORS 390.605, where removal or fill activities are regulated under a state-assumed permit program as provided in 33 U.S.C. 1344(g) of the Federal Water Pollution Control Act, as amended.¶¶

(1086) "Wet Perimeter", as used in OAR 141-089, means the area of the stream that is under water, or is exposed as a non-vegetated dry gravel bar island surrounded on all sides by actively moving water at the time a removal-fill activity occurs.¶¶

(1097) "Wetland Hydrology" means the permanent or periodic inundation or prolonged saturation sufficient to create anaerobic conditions in the soil and support hydrophytes.¶¶

(1108) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Statutory/Other Authority: ORS 196.600-196. 692, 196.825

Statutes/Other Implemented: ORS 196.600-196. 692, ORS 196.800-196.990

RULE SUMMARY: This rule is being amended to establish removal-fill permit fees in rule, incorporate a five-year fee schedule, and implement a tiered project structure. Following the first public comment period, changes were made to the applicant type (now application type) which resulted in a change to certain fees for each application type.

CHANGES TO RULE:

141-085-0545

Fees; Amounts and Disposition for Removal-Fill Applications

(1) Disposition of Fees. All Fees. The non-refundable fees for each application shall be a base application fee and a tier fee if applicable. Some applications that may also require a fee, except an annual fee, a variance fee, a modification fee, or a transfer fee. The fees are due as follows:

(a) All applicants, except applicants for an emergency authorization, must include the pay the base application fee at the time of application.

(2) Project submission. Applications that Require a Fee. Except as provided in Section (3) of this rule, the following types of projects require a fee for a complete application. If the Department determines that the amount of the base application fee submitted at the time of application is incorrect, that information will be included with the incompleteness determination.

(a) Individual Permit and General Permit applications that require a fee, must be accompanied by the applicable base fee and volume fee in accordance with the current fee schedule;

(b) General Authorization. The Department will notify all applicants, except applicants for an emergency authorization, of the appropriate preliminary tier fee at least 25 calendar days prior to the permit decision deadline. The Department may deny an application if the applicant does not pay the appropriate notifications which require a fee under fee prior to the final permit decision deadline, unless the timeline is extended according to OAR 141-0895-0635, must be accompanied by the flat fee when the proposed removal-fill activity is 50 cubic yards or more; and

(c) Emergency Authorization holders, except for erosion or flood repair, must submit the required fee to the Department 560 subsection (b) or (c) for an individual permit or OAR 141-093-0115(2) for a general permit.

(c) The applicant shall pay other fees (i.e., variance fee, modification fee, transfer fee) within 30 calendar days of notice from the Department that fees are outstanding. The Department may deny the request if the applicant does not pay the appropriate fees within 30 calendar days of the notice that fees are outstanding.

(d) Base application fees and the tier fees for emergency authorizations shall be paid within 45 calendar days of receiving the authorization.

(3) Project Applications that Do Not Require a Fee. No application fee or renewal fee is required. Failure to pay the base application fee and tier fee shall be a basis to revoke or suspend when submitting an application or notification for the following:

(a) An agency authorization under OAR 141-085-0780.

(e) There is no application fee or tier fee for notifications submitted to the department for Exemptions for Certain Voluntary Habitat Restoration Projects (OAR 141-085-0534). However, if the department determines that the project does not require a permit from the Department; exempt, the appropriate application fee and tier fee are required for the project.

(b2) Erosion flood repair or stream bank stabilization Fee by Application Type. Fees for applications are based on the application projects, regardless of the authorization type which is determined as follows:

(a) Application Type;

(c) Voluntary habitat restoration projects directed at habitat improvement, regardless of the authorization A is for projects that are entirely not for profit.

(b) Application Type B is for projects where any part of the project aims to generate profit.

(3) The following base application fee applies to all applications:

(a) Effective January 1, 2026 - \$700, Application Type A and \$2,100, Application Type B;

(db) A general authorization when the project involves less than 50 cubic yards of removal-fill activity; and Effective January 1, 2027 - \$761, Application Type A and \$2,284, Application Type B;

(b) Effective January 1, 2028 - \$826, Application Type A and \$2,477, Application Type B;

(ed) A general permit that does not require a fee when specified in OAR 141-093.

(4) Calculating Application Fees. For each application that involves both removal and fill activity, the application fee is calculated separately for each activity using the base and volume fees. The required fee to be submitted with

~~the application is the greater of the two calculated fees.~~ Effective January 1, 2029 - \$893, Application Type A and \$2,679, Application Type B

~~(e) Effective January 1, 2030 - \$964, Application Type A and \$2,892, Application Type B~~

(4) Permit Tiers. During review of an application or permit modification, the Department will identify the applicable permit tier for the project. Refer to OAR 141-085-0545 (PDF, incorporated by reference) for the project criteria for each tier.

(5) Tier Fees. The following are the project tier fees:

(a) Effective January 1, 2026:

(A) Tier 1 - \$200, Application Type A and \$600, Application Type B

(B) Tier 2 - \$800, Application Type A and \$2,400, Application Type B

(C) Tier 3 - \$3,000, Application Type A and \$9,000, Application Type B

(D) Tier 4 - \$5,000, Application Type A and \$15,000, Application Type B

(5E) Base Fees. Base fees are based on the following applicant classifications: Tier 5 - \$7,000, Application Type A and \$21,000, Application Type B

(b) Effective January 1, 2027:

(A) Tier 1 - \$341, Application Type A and \$1,024, Application Type B

(B) Tier 2 - \$971, Application Type A and \$2,914, Application Type B

(aC) Private operator, or a person contracting to perform services for a private operator; Tier 3 - \$1,551, Application Type A and \$10,631, Application Type B

(D) Tier 4 - \$5,644, Application Type A and \$16,931, Application Type B

(E) Tier 5 - \$7,744, Application Type A and \$23,231, Application Type B

(c) Effective January 1, 2028:

(A) Tier 1 - \$490, Application Type A and \$1,469, Application Type B

(bB) Public body; or Tier 2 - \$1,151, Application Type A and \$3,453, Application Type B

(cC) Commercial operator; Tier 3 - \$4,115, Application Type A and \$12,344, Application Type B

(6D) Volume Fees. In addition to the base fee established under Section (5) of this rule, each applicant may be required to also pay, as part of the application, an additional fee based on the volume of material according to the following schedule: Tier 4 - \$6,320, Application Type A and \$18,959, Application Type B

(E) Tier 5 - \$8,525, Application Type A and \$25,574, Application Type B

(d) Effective January 1, 2029:

(A) Tier 1 - \$645, Application Type A and \$1,936, Application Type B

(B) Tier 2 - \$1,340, Application Type A and \$4,020, Application Type B

(C) Tier 3 - \$4,714, Application Type A and \$14,143, Application Type B

(D) Tier 4 - \$7,029, Application Type A and \$21,088, Application Type B

(E) Tier 5 - \$9,345, Application Type A and \$28,034, Application Type B

(e) Effective January 1, 2030:

(A) Tier 1 - \$809, Application Type A and \$2,426, Application Type B

(B) Tier 2 - \$1,538, Application Type A and \$4,614, Application Type B

(C) Tier 3 - \$5,344, Application Type A and \$16,031, Application Type B

(aD) Less than 500 cubic yards; Tier 4 - \$7,775, Application Type A and \$23,324, Application Type B

(bE) 500 to less than 5,000 cubic yards;

(c) 5,000 to less than or equal to 50,000 cubic yards; or

(d) Over 50,000 cubic yards; Tier 5 - \$10,206, Application Type A and \$30,617, Application Type B

(6) For applications in Tier 5, if the department's costs exceed the costs outlined in Section (5), an additional hourly rate will be charged. The Department will notify the applicant of the initial cost estimate and seek approval prior to initiating work. The hourly rate will be based on the actual costs at the time of service.

(7) Annual Fees. For individual permits, and general permits, that are renewed or valid for more than one up to 5 years, an annual fee is assessed for each year that the permit is in effect. The annual fee is equal to the base fee at the time of renewal or annual billing and is due by due 45 days prior to the anniversary date of issuance of the permit.

(8) Multiyear Permits. For issuance of The Department may assess the fee for multi-year permits valid over a period of more than one year and or renewal as a one-time fee for up to five years, the Department may assess a one-time fee at the rate in effect at the time of the application or renewal. The one-time fee must include:

(a) The application fee; and, The one-time fee for multi-year permits or renewal will be calculated using the annual fee for each year the permit is active. If a future year's fee has not been set yet, the most recent available fee will be used instead.

(a) Effective January 1, 2026 - \$400 per year

(b) Effective January 1, 2027 - \$446 per year

(c) Effective January 1, 2028 - \$495 per year

~~(b)~~ (d) Any applicable annual fees for the duration of the permit: Effective January 1, 2029 - \$546 per year.

(e) Effective January 1, 2030 - \$599 per year.

(8) Fees for Request for Modification of Permit Conditions or Transfer of the permit authorization.

(9a) Adjust The following Fee Amounts. Fees are adjusted annually, on January 1 of each year. By December 1 of each year the Department apply to a request from the authorization holder to either modify authorization conditions or transfer an individual permit or general permit:

(A) Effective January 1, 2026 - \$400

(B) Effective January 1, 2027 - \$446

(C) Effective January 1, 2028 - \$495

(D) Effective January 1, 2029 - \$546

(E) Effective January 1, 2030 - \$599

(b) Transfer or modification of an authorization will result in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor to determine Department re-evaluating the application type and permit tier. Any additional fee will be sent to the applicant in a notice that fees are outstanding before the transfer or modification is issued. The Department may deny a transfer or modification request if the applicant does not pay the appropriate annual fee adjustment to become effective on January 1 of the following year. The Department will then revise the fees in accordance with the CPI and post the fee schedule on the Department's website (<http://oregonstatelands.us/>). fees within 120 calendar days of the notice that fees are outstanding.

(9) Variance Fees. The following fees apply for requests to deviate from the permitted In-Water Work Window:

(a) Effective January 1, 2026 - \$100 per year

(b) Effective January 1, 2027 - \$105 per year

(c) Effective January 1, 2028 - \$110 per year

(d) Effective January 1, 2029 - \$116 per year

(e) Effective January 1, 2030 - \$122 per year

Statutory/Other Authority: ORS 196.825, 196.600-196.692

Statutes/Other Implemented: ORS 196.600-196.692, 196.800-196.990

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

Removal-Fill Project Tiers (Applications for Individual, General, and Emergency Permits)

Project Tier	Project Criteria
Base Application Fee	<p>All applicants are required to pay the base application fee at the time of submission. The remainder of project costs will be due before the Department issues a permit.</p> <p>When the Department finds a project does not require an authorization (no state permit required) only the base application fee is required.</p>
Tier 1	<p>To qualify for Tier 1, a project must:</p> <p>Be for the primary purpose of voluntary habitat improvement of the ecological condition of a water of this state but an authorization is required, AND the project will not result in unacceptable individual or cumulative environmental effects or long-term harm to water resources of this state.</p>
Tier 2	<p>To qualify for Tier 2, a project must be:</p> <p>A) A General Permit for Minor Removal-Fill Impacts to Certain Non-Tidal Wetlands</p> <p>B) A General, Individual, or Emergency Application that:</p> <ul style="list-style-type: none">Does not require compensatory mitigation, ORPermanent wetland impacts are 0.2 acres or less and compensatory mitigation is provided by using mitigation banks, in-lieu fee, or payment in-lieu; ANDDoes not occur in an estuary (tidal waters), essential salmonid habitat, or a state scenic waterway; and does not have temporary or permanent impacts to an aquatic resource of special concern.
Tier 3	<p>To qualify for Tier 3 a project is limited to the following categories and does not include Tier 4 or 5 criteria:</p> <ul style="list-style-type: none">Has impacts to wetlands totaling less than 2 acres, ORHas permanent impacts to non-wetland waters, but not both.
Tier 4	<p>Tier 4 includes projects with the following categories, and does not include Tier 5 criteria:</p> <p>A) A Department of Environmental Quality Remedial Action Waiver</p> <p>B) General, Individual, or Emergency Application that meets <u>one or more</u> of the following parameters <i>AND</i> the criteria listed in Tier 3 OR Tier 3 criteria are not met:</p> <ul style="list-style-type: none">More than one functional assessment is required.Impacts 2 or more wetland acres.Has temporary or permanent impacts to an aquatic resource of special concern.Impacts, either temporarily or permanently, a compensatory mitigation site.Project site involves an enforcement.Project involves multiple phases (past or future) that need to be considered in the Application review.The project occurs in the Pacific Ocean (Territorial Sea).The project requires a minor exception to the Lower Willamette River Management Plan that is not pre-approved by the Director.Application (required information) is 150 or more pages.Substantive comments are received and result in a design modification.Requires more than one public review.Application takes more than 12 months to issue due to resolution of project elements or requests for extension.Requires formal coordination with other local or state entities, Tribal governments, the federal government, and/or other interested stakeholders, such as multiple communications, meeting(s), or formal consultation.

Project Tier	Project Criteria
	<ul style="list-style-type: none">Requires more than one site visit or coordination meeting with the applicant, either pre- or post-application submittal.The permit will include an Adaptive Management Plan.
Tier 5	<p>Tier 5 includes projects that meet one or more of the following of the following criteria:</p> <p>General, Individual, or Emergency Application that:</p> <ul style="list-style-type: none">Requires a major exception to the Lower Willamette River Management Plan.Requires a Joint Agency Review Team meeting under the Territorial Sea Plan.Is a new linear facility (as defined in OAR 141-085-0510) that is more than ten miles long. <p><i>DSL maintains the ability to charge for staff time beyond the project fee listed. If the project occurs in phases, DSL has the ability to enter into a contract with the responsible party.</i></p>

AMEND: 141-089-0635

NOTICE FILED DATE: 04/24/2025

RULE SUMMARY: This rule is being amended to establish general authorization fees in rule and incorporate a five-year fee schedule. Following the first public comment period, changes were made to the proposed rule language in OAR 141-085-0545 which resulted in a change to the fees for general authorizations.

CHANGES TO RULE:

141-089-0635

Fees; Disposition of Fees ¶

(1) Fees. ~~For projects that equal or exceed 50 cubic yards of removal or fill, a flat fee of \$250.00 will be assessed and must be submitted with the notification for the following GAs:¶~~

~~(a) Temporary Impacts to Wetlands and Waterways; and~~ The fee for all General Authorization Notifications is a flat fee as follows:¶

(a) Effective January 1, 2026 - \$450¶

(b) Effective January 1, 2027 - \$499¶

(c) Effective January 1, 2028 - \$550¶

(d) Effective January 1, 2029 - \$604¶

(e) Effective January 1, 2030 - \$660¶

(f) Fees are due at the time of notification submission. Notifications that do not include the fee will receive an incompleteness determination under OAR 141-089-0640(3).¶

(2) The following fees apply to a request from the authorization holder to revise or transfer a General Authorization:¶

~~(b) Over-Water Structures Fill and Removal.~~ Effective January 1, 2026 - \$50¶

(b) Effective January 1, 2027 - \$66¶

(c) Effective January 1, 2028 - \$82¶

(d) Effective January 1, 2029 - \$99¶

~~(2e) Fees for Project with Combined GAs. For a project which combines multiple GAs u~~ Effective January 1, 2030 - \$117¶

(f) The applicant shall pay these fees within 30 calendar days of a Department notice that fee is required for more than one of the GAs according to OAR 141-089-0635(1), a fee is outstanding. The Department may deny an application if the applicant does not pay the appropriate fee of \$250.00 will be required for the projects within 30 calendar days of the notice.¶

(3) Fees Deposited in the statutory Common School Fund. The Department will credit any fee collected under this section to the statutory Common School Fund for use by the Department in administration of ORS 196.600 through 196.905.

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: 141-090-0032

NOTICE FILED DATE: 04/24/2025

RULE SUMMARY: This rule is being amended to establish on-site determination and wetland delineation report review fees in rule, incorporate a five-year fee schedule, and implement a tiered project structure.

CHANGES TO RULE:

141-090-0032

~~Fees for Wetland Delineation Report Review~~

(1) Any person submitting a wetland delineation report to the Department for review and approval must pay to the Department a nonrefundable fee ~~in the amount as determined under ORS 196.818(9). A request for reissuance of an expiring report is not subject to an additional fee.~~

(2) based on the appropriate Wetland Delineation Report Tier. Refer to OAR 141-090-0032 PDF (incorporated by reference) for tier criteria.

(2) Wetland Delineation Report Tier Fees.

(a) Effective January 1, 2026:

(A) Tier 1 - \$ 600

(B) Tier 2 - \$1,200

(C) Tier 3 - \$3,500

(b) Effective January 1, 2027:

(A) Tier 1 - \$761

(B) Tier 2 - \$1,391

(C) Tier 3 - \$3,938

(c) Effective January 1, 2028:

(A) Tier 1 - \$931

(B) Tier 2 - \$1,592

(C) Tier 3 - \$4,397

(d) Effective January 1, 2029:

(A) Tier 1 - \$1,108

(B) Tier 2 - \$1,803

(C) Tier 3 - \$4,879

(e) Effective January 1, 2030:

(A) Tier 1 - \$1,295

(B) Tier 2 - \$2,024

(C) Tier 3 - \$5,386

(3) If the person submitting a report withdraws the report from agency review after it has been submitted and the fee paid, or if the Department withdraws the report according to OAR 141-090-0040(3)(d), any resubmittal is subject to a new fee.

~~(34)~~ If a person wishes to change information in or expand the geographic area covered by a report that is pending initial review by the Department, a revised report may replace the previous report in its entirety, without incurring an additional fee, if doing so does not change the Wetland Delineation Report Tier. If the Wetland Delineation Report Tier changes as a result of the revised report, the Department will notify the person of the fee balance to be paid prior to agency review. This provision does not apply to changes requested by the Department.

~~(45) If a person wishes to resubmit a rejected wetland delineation report, that has been rejected by the Department per OAR 141-090-0040(3)(f) may be revised and resubmitted along with an additional nonrefundable fee of \$100.00.~~ e report may be revised and resubmitted along with a new nonrefundable fee pursuant to Section (2).

(6) For applications in Tier 3 that exceed the costs outlined in Section (2), an additional hourly rate will be charged. The Department will notify the applicant of the initial cost estimate and seek approval prior to initiating work. The hourly rate will be based on the actual costs at the time of service.

(7) If a person wishes to request reissuance of a previously approved wetland delineation report, a reissuance request must be submitted within one year of the report's expiration date, the request must be prepared by a wetland professional, and all previously delineated boundaries must remain unchanged. The request for reissuance and supporting materials are submitted to the Department along with a new nonrefundable fee as follows:

(a) Effective January 1, 2026 - \$600

- (b) Effective January 1, 2027 - \$761
- (c) Effective January 1, 2028 - \$931
- (d) Effective January 1, 2029 - \$1,108
- (e) Effective January 1, 2030 - \$1,295

(8) If a person wishes to request an on-site wetland determination by the Department, a complete wetland determination request form may be submitted to the Department along with a nonrefundable fee as follows:

- (a) Effective January 1, 2026 - \$450
- (b) Effective January 1, 2027 - \$499
- (c) Effective January 1, 2028 - \$550
- (d) Effective January 1, 2029 - \$604
- (e) Effective January 1, 2030 - \$660

Statutory/Other Authority: ORS 196.845, 196.692

Statutes/Other Implemented: 196.800 - 196.990, 196.600 - 196.665, 196.668 - 196.692, 197.279

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

Wetland Delineation Report Review Tiers

Tier	Project Criteria
Tier 1	Delineation report reviews with less than or equal to 0.2 wetland acres.
Tier 2	Delineation report reviews with greater than 0.2 wetland acres.
Tier 3	<ul style="list-style-type: none">• Delineation report reviews with greater than 0.2 wetland acres, AND• The study area is in a west side county and the study area is 100 acres or greater, OR• The study area is in an east side county and the study area is 200 acres or greater.

AMEND: 141-093-0105

NOTICE FILED DATE: 04/24/2025

RULE SUMMARY: This rule is being amended to conform with amendments to OAR 141-085-0545.

CHANGES TO RULE:

141-093-0105

Application Requirements and Completeness Review for Authorizing Projects under a General Permit ¶

(1) Authorization Required. Unless otherwise specified, a separate application must be submitted to the Department before starting any project covered by a GP.¶

(2) Required Information. A complete, signed application must be submitted on forms provided by the Department. The application must contain all applicable information set forth in OAR 141-085-0550. An approved, unexpired wetland delineation is required when wetlands are proposed for impact, unless otherwise approved by the Department.¶

(3) Applicant Signature Required. The applicant signature is required. As used in this section, "applicant" means a person who has the authority and responsibility to fully execute the terms and conditions of an authorization issued under these rules. The applicant becomes the authorization holder. The OAR 141-085-0510(1) definition of "applicant" does not govern use of the term in this Division.¶

(4) Fee. Any person proposing to conduct an activity under a GP must pay all application fees in accordance with the procedures set forth in the Fees and Disposition Section under OAR 141-085-0545, unless otherwise specified in a specific GP.

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: 141-093-0120

NOTICE FILED DATE: 04/24/2025

RULE SUMMARY: This rule is being amended to conform with amendments to OAR 141-085-0545.

CHANGES TO RULE:

141-093-0120

~~Expiration and Annual Billing~~ ¶

~~(1) Term of Authorizations Issued Under a General Permit. Authorizations under a General Permit may be kept active for up to five years or as allowed under a specific GP provided the applicable annual fees are received by the Department before the anniversary date of the authorization.¶~~

~~(2) Annual Billing Notice. Unless otherwise specified, an annual fee is assessed for each year that the authorization is in effect, . The annual fee is equal to the base fee in effect at the time of annual billing and is due by the anniversary date of issuance of the authorization. Before the anniversary date of authorization, the Department will send an annual billing notice to the authorization holder.¶~~

~~(3) Failure to Pay Annual Billing Fee. When a GP authorization holder fails to submit the applicable annual fee, the Department will expire the authorization on the anniversary date of the authorization.¶~~

~~(4) One-Time Fee Assessment for Authorization under a General Permit. Authorization under a GP may be issued for up to five years, the Department may, at the request of the applicant, assess a one-time fee based on the fee schedule in effect at the time of the application or annual billing. The one-time fee must include:¶~~

~~(a) The application fee; and¶~~

~~(b) Any applicable annual fees for the duration of the term; renewal fees per OAR 141-085-0545 are received by the Department before the anniversary date of the authorization.~~

Statutory/Other Authority: ORS 196.600 - 196.692, 196.795 - 196.990

Statutes/Other Implemented: ORS 196.600 - 196.692, 196.795 - 196.990