

# Removal-Fill Fees (OAR 141-085, -089, -090, -093) Rulemaking Public Comments and Agency Response



## Comments & Agency Response

A second comment period was open from May 1, 2025, to May 31, 2025, at 5:00 PM. The Department received one comment in total.

### Table of Contents

Comment	Page
Comment Received	1

**Dana K, Anderson Perry & Associates, Inc. – May 1, 2025** (via online form)

#### Comment:

We submit JPAs on behalf of many small cities and counties where no DSL staff are physically present. Our cost to produce the documentation for simple JPAs is close to some of the fees that are proposed. These fees are going up more than 10 times what clients are currently paying (for projects like a small culvert repair for example). I have three suggestions that came to mind when reviewing this. 1) It would seem appropriate to have a reduced fee waiver option for some groups - for example rural/underserved communities (potentially with an easily reviewable threshold like LMI household income in a census defined area - or communities affected by different minimum wage thresholds). 2) DEQ's fees for 1200C permit application review and 401 WQCs seem like a range that existing project budgets might be able to cover for this first round of increases. 3) DSL could reduce administrative burden by accepting/tiering to USACE 404 permit decisions when reasonably applicable. Thanks for your consideration - I appreciate your good work!

#### Agency Response:

Thank you for your comments. The current fees paid by developers, property owners, and other permit applicants cover just 21% of the costs associated with Oregon's removal-fill permitting process. On average, it costs the Common School Fund \$2.8 million every year to cover the remaining costs.

House Bill 2238 (2023) states that in establishing fees, the Director must consider the administrative costs to the Department and the impacts on the waters of this state associated with different project types, as well as the impact of establishing a fee structure for full cost recovery. Reduced fees for specific groups or communities would require legislative and executive action, and likely an additional funding source. After the first public comment period, changes were made to application types (Application Type A and Application Type B) that focus on the nature of the project—specifically whether it is for-profit or not—regardless of who is

applying. The overall cost recovery target was reduced from 85% to 80%, striking a balance between affordability and program sustainability.

Note that many repairs of existing culverts are exempt from DSL Removal-Fill permitting under OAR 141-085-0530(4) and (5) and therefore, do not require an application or a fee. If applicants choose to apply for a “No State Permit” determination from DSL, that is currently free. Under the proposed rules, these will have a base application fee but no tier fee.

We also note that DSL and the Oregon Department of Environmental Quality (DEQ) have independent authority, application and review processes, and program costs, as do DSL and U.S. Army Corps of Engineers (USACE). Aligning or waiving permit fees does not achieve the goals of House Bill 2238 and would require additional legislative and executive action.