

1 Department of State Lands

2
3 OAR 141-089

4
5 ADMINISTRATIVE RULES
6 GOVERNING THE ISSUANCE AND ENFORCEMENT OF
7 GENERAL AUTHORIZATIONS
8 WITHIN WATERS OF THIS STATE

9
10 [Draft Rules for Public Review April 27, 2012](#)
11 [Final Strikethrough](#)

12
13 [September 25, 2012](#)

14
15 **141-089-0620**

16
17 **General**

18
19 (1) **Special Headings and Fonts.** Where headings, special fonts or double-spacing are
20 used, they are for the convenience of the user only and have no substantive effect.

21
22 (2) **Applicability of OAR 141-085.** Unless otherwise specified under OAR 141-089, the
23 provisions of OAR 141-085 apply to General Authorizations.

24
25 (3) **Previous GAs Repealed.** OAR 141-089-0095 through 141-089-0615 were repealed
26 on March 1, 2011.

27
28 ~~(4) **Projects Authorized under Previous GAs.** Authorizations issued under the previous~~
29 ~~OAR set forth in Section (3) of this rule will remain in effect until January 1, 2012. At the~~
30 ~~Department's discretion, limited extensions may be allowed for projects that have been~~
31 ~~started but not completed by this date. Written approvals for extensions must be obtained~~
32 ~~from the Department before January 1, 2012.~~

33 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

34 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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36
37 **141-089-0625**

38
39 **General Authorizations (GA); Process for Establishing; Standards and Criteria**

40
41 ~~GAs are adopted individually by rule and can be found in OAR 141-089-0660 through~~
42 ~~141-089-0835.~~

43
44 (1) **Waiver of Permit Requirements.** An individual removal-fill permit may not be
45 necessary if a proposed activity meets the requirements of a General Authorization (GA).
46 Any person proposing to conduct a removal-fill activity under a GA must first notify the
47 Department in writing and pay any applicable fee to the Department.

48
49 (2) **Establishment.** General Authorizations are adopted, amended and repealed as
50 administrative rules in accordance with the Administrative Procedure Act (ORS 183.310)

1 through 183.550). A General Authorization may be granted on a statewide or other
2 geographic basis.

3
4 (3) **Criteria for Adoption.** The Department may adopt a GA based upon a finding that
5 the category of activities of removal-fill:

6
7 (a) Are substantially similar in nature;

8
9 (b) Would cause only minimal individual and cumulative environmental impacts; and

10
11 (c) Would not result in long-term harm to the water resources of this state.

12
13 (4) **Department Findings.** These General Authorizations are made pursuant to ORS
14 196.850 and are based upon the determination that the authorized activities are similar in
15 nature and when conducted in accordance with these rules will not result in long-term
16 harm to water resources of the state, and will cause only minimal individual and
17 cumulative environmental effects.

18
19 (5) **Amend or Rescind.** The Department may amend or rescind any GA, through
20 rulemaking, upon a determination that the removal-fill activity conducted under the
21 General Authorization has resulted in or would result in more than minimal adverse effect
22 or long-term harm to the water resources of this state. Any person may request the
23 Department apply this provision. Such a request must include the specific General
24 Authorization to be rescinded or amended and the reasons for the request.

25
26 (6) **Expiration of General Authorizations.** The Department will conduct a review of the
27 GAs on or before March 1, 2016. The review will include public notice and opportunity for
28 public hearing. At the completion of its review, the Department will decide whether to
29 modify, reissue or rescind the GAs.

30 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

31 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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33
34 **141-089-0630**

35
36 **Project Applicability**

37
38 (1) **Applicability.** This rule sets forth conditions under which a person may, without an
39 individual removal-fill permit from the Department, place or remove material within waters
40 of this state, ~~excluding State Scenic Waterways,~~ as defined in OAR 141-085 for the
41 purposes set forth in each GA. This rule does not apply to activities proposed within
42 areas designated as:

43
44 (a) A State Scenic Waterway; or

45
46 (b) A wetland of conservation concern, unless the activity is for habitat restoration
47 purposes. Wetlands of conservation concern are bogs, fens, playas, salt flats, alkaline
48 lakes, hot springs, native wet prairies, vernal pools, inter dunal wetlands, mature forest
49 wetlands, ultramafic soil wetlands, wooded tidal wetlands, and un diked tidal wetlands, as
50 determined by the Department.

1
2 (2) **Department Determination of Eligibility.** To be eligible for a GA, a project must
3 comply with the general conditions described in OAR 141-089-0650 as well as individual
4 GA purpose, eligibility, authorized activities and activity-specific conditions. In the event a
5 dispute arises concerning or about the applicability of a General Authorization to any
6 project notification, the Department will make the final determination.
7

8 (3) **Thresholds and Best Management Practices (BMPs).** BMPs necessary to comply
9 with the general conditions are not included in the thresholds under each General
10 Authorization.
11

12 (4) **Project with More Than Minimal Impacts.** The Department may require an
13 individual removal-fill permit for a project that would otherwise be authorized by a general
14 authorization, if the Department determines that the activity might cause more than
15 minimal individual or cumulative environmental effects or might result in long-term harm
16 to the water resources of the state. The Department may also require an application for
17 an individual removal-fill permit if requested to do so by the Oregon Department of Fish
18 and Wildlife, the Oregon Department of Environmental Quality or the affected local land
19 use planning department.
20

21 (5) **Combining Activities.** The following General Authorizations may be combined to
22 cover a single project when the combined activities result in no more than minimal
23 impacts:
24

- 25 (a) Waterway Habitat Restoration;
- 26
- 27 (b) Wetland Ecosystem Restoration;
- 28
- 29 (c) Waterway Bank Stabilization;
- 30
- 31 (d) Piling Placement and Removal;
- 32
- 33 (e) Certain Transportation-Related Activities in ESH; and
- 34
- 35 (f) Temporary Impacts to Non-Tidal Wetlands.
36

37 (6) **Entire Project.** Projects eligible for GAs must rely solely on GAs for their
38 authorization. GAs may not be combined with either Individual Permits or authorizations
39 under General Permits.

40 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

41 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
42

43 **141-089-0635**

44 **Fees; Disposition of Fees**

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46
47
48 (1) **Fees.** For removal-fill volumes that equal or exceed 50 cubic yards, a flat fee of
49 \$250.00 will be assessed and must be submitted with the notification for the following
50 GAs:

- 1
2 (a) Certain Transportation-Related Activities in ESH;
3
4 (b) Temporary Impacts to Non-Tidal Wetlands;
5
6 (c) Piling Placement or Removal; and
7
8 (d) Removing and Disposing of Sediment Behind Tidegates and Within Hydraulically
9 Closed Perimeters.

10
11 (2) **Fee for Project with Combined GAs.** For a project which combines multiple GAs
12 under OAR 141-089-0630 and for which a fee is required for more than one of the GAs
13 according to OAR 141-089-0635(1), a flat fee of \$250.00 will be required for the project.

14
15 (3) **Fees Deposited in the Common School Fund.** The Department will credit any fee
16 collected under this section to the Common School Fund for use by the Department in
17 administration of ORS 196.600 through 196.905.
18 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
19 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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21
22 **141-089-0640**

23
24 **Pre-Construction Notification**

25
26 (1) **Project Notification Required.** A complete project notification must be submitted to
27 the Department at least 30 calendar days before starting the project. A complete
28 notification is one that contains all the information required on the form provided by the
29 Department and all required attachments. ~~The project may begin 30 calendar days from~~
30 ~~agency receipt of the notification.~~

31
32 (2) **Review of the Notification.** Within 30 calendar days of receipt, the Department will
33 review the notification for completeness and eligibility, make one of the following
34 determinations and notify the responsible party that:

- 35
36 (a) The notification is complete and the project is eligible under the GA;
37
38 (b) The notification is incomplete and the person must supply certain specified missing,
39 inaccurate or insufficient information. The person may amend and resubmit the
40 notification within 120 calendar days of the notice for reconsideration, unless instructed
41 by the Department to do otherwise. Submission of an amended notification starts a new
42 30-day review period; or
43
44 (c) The project is ineligible for certain specified reasons. The person may then either
45 revise the project and submit for reconsideration within 120 days of the notification or
46 apply for an individual permit under OAR 141-085. Submission of an amended
47 notification commences a new 30-day review period.

48
49 (3) **Timeframe for Resubmittal of Incomplete or Ineligible Notifications.** If a revised
50 notification or application is not resubmitted within 120 calendar days of an

1 incompleteness or ineligible determination, the Department will presume that the
2 responsible party does not intend to provide revisions to the notification and may
3 administratively close the file. If the Department closes the file under these
4 circumstances, the Department will retain the application fee. If the Department receives
5 a subsequent notification or application for the same or similar project after a file has
6 been closed, the responsible party must pay any applicable fees for the new notification
7 at time of submission.

8
9 **(4) Project Implementation. The person submitting the notification may begin the**
10 **project:**

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11
12 **(a) Immediately upon receipt of a determination by the Department under OAR 141-089-**
13 **640(2)(a) that the project is eligible; or**

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14
15 **(b) Thirty (30) calendar days after Department received the notification, unless the**
16 **Department issued a determination under OAR 141-089-0640 (b) or (c).**

17 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

18 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

19
20
21 **141-089-0645**

22
23 **Expiration of Project Eligibility**

24
25 (1) Except as provided below under Section (2) of this rule for the Recreational and Small
26 Scale Placer Mining GA (See OAR 141-089-0820):

27
28 (a) A notification confirmed as eligible under a GA will be valid for three years or until the
29 project is complete, whichever occurs first; and

30
31 (b) Requests for renewals or extensions will not be granted.

32
33 (2) Expiration and Renewal of Recreational Placer Mining Authorizations are according to
34 the following:

35
36 (a) Authorizations issued under the Recreational Placer Mining GA expire on December
37 31 of each year;

38
39 (b) When an authorization is issued, a completed Recreational Placer Mining Report
40 Form must be submitted to the Department by December 31 of each year the
41 authorization was active; and

42
43 (c) Renewal of the authorization will require submission of a completed Recreational
44 Placer Mining Report for the previous year.

45 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

46 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

47
48
49 **141-089-0650**

1 **General Conditions**

2
3 The following conditions apply to all general authorizations, unless otherwise specified in
4 a specific GA or an authorization issued under a GA except for Removing and Disposing
5 of Sediment Behind Tidegates and Within Hydraulically Closed Perimeters (OAR 141-
6 089-0760 through 141-089-0775):

7
8 (1) **Responsible Party.** The person listed on the notification as the responsible party is
9 responsible for the activities of all contractors or other operators involved in project work
10 covered by the GA.

11
12 (2) **Copy of Approved Notification Available for Inspection.** A copy of the notification
13 approved by the Department must be available at the work site whenever noticed
14 activities are being conducted.

15
16 (3) **Site Access Required.** Employees of the Department and all authorized
17 representatives must be permitted access to the project area at all reasonable times for
18 the purpose of inspecting work performed under a notification.

19
20 (4) **Archeological Resources.** If any archeological sites, resources or artifacts are
21 discovered during construction, work must immediately cease and the State Historic
22 Preservation Office must be contacted.

23
24 (5) **ODFW Fish Passage Requirement.** The ~~noticed~~ activity must meet Oregon
25 Department of Fish and Wildlife requirements for fish passage before the project is
26 started (ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040).

27
28 (6) **Hazards to Recreation, Navigation and Fishing.** The activity must be timed so as
29 not to interfere with or create a hazard to recreational and commercial navigation and
30 fishing.

31
32 (7) **Work Period in Jurisdictional Areas.** Fill or removal activities below the Ordinary
33 High Water Line must be conducted when recommended by ODFW, unless otherwise
34 coordinated with Oregon Department of Fish and Wildlife and approved in writing by
35 DSL. Work is prohibited when fish eggs are present within the reach where activities are
36 being conducted.

37
38 (8) **Pre-Construction Resource Area Fencing or Flagging.** Prior to any site grading,
39 the boundaries of any avoided wetlands, waterways and riparian areas adjacent to the
40 project site must be surrounded by noticeable construction fencing or flagging. There
41 must be no vegetation removal or heavy equipment within marked areas. The marked
42 areas must be maintained during construction of the project and be removed immediately
43 upon project completion.

44
45 (9) **Erosion Control Methods.** The following erosion control measures must be installed
46 at the construction site prior to construction and maintained during and after construction
47 to prevent erosion and minimize movement of soil into waters of this state:

48
49 (a) All exposed soils must be stabilized during and after construction in order to prevent
50 erosion and sedimentation;

- 1
2 (b) Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or
3 other measures must be used to prevent movement of soil into waterways and wetlands;
4
- 5 (c) To prevent erosion, use of compost berms, impervious materials or other equally
6 effective methods, must be used to protect soil stockpiled during rain events or when the
7 stockpile site is not moved or reshaped for more than 48 hours;
8
- 9 (d) Unless part of the permanent fill, all construction access points through, and staging
10 areas in, riparian and wetland areas must use removable pads or mats to prevent soil
11 compaction. However, in some wetland areas under dry summer conditions, this
12 requirement may be waived upon approval by DSL. At project completion, disturbed
13 areas with soil exposed by construction activities must be stabilized by mulching and
14 native vegetative plantings/seeding. Sterile grass may be used instead of native
15 vegetation for temporary sediment control if native vegetation is unavailable. If soils are
16 to remain exposed for more than seven days after completion of the permitted work, they
17 must be covered with erosion control pads, mats or similar erosion control devices until
18 vegetative stabilization is installed;
19
- 20 (e) Where vegetation is used for erosion control on slopes steeper than 2:1, tackified
21 seed mulch must be used so the seed does not wash away before germination and
22 rooting;
23
- 24 (f) Dredged or other excavated material must be placed on upland areas having stable
25 slopes and must be prevented from eroding back into waterways and wetlands;
26
- 27 (g) Erosion control measures must be inspected and maintained as necessary to ensure
28 their continued effectiveness until soils become stabilized; and
29
- 30 (h) All erosion control structures must be removed when the project is complete and soils
31 are stabilized and vegetated.
32
- 33 **(10) Hazardous, Toxic, and Waste Material Handling.** Petroleum products, chemicals,
34 fresh cement, sandblasted material and chipped paint, wood treated with leachable
35 preservatives or other deleterious waste materials must not be allowed to enter waters of
36 this state. Machinery refueling is to occur at least 150 feet from waters of this state and
37 confined in a designated area to prevent spillage into waters of this state. Barges must
38 have a containment system to effectively prevent petroleum products or other deleterious
39 material from entering waters of this state. Project-related spills into waters of this state
40 or onto land with a potential to enter waters of this state must be reported to the Oregon
41 Emergency Response System (OERS) at 1-800-452-0311.
42
- 43 **(11) Raising or Redirecting Water.** The project must not cause water to rise or be
44 redirected and result in damage to structures or property.
45
- 46 ~~(12) Wetlands of Conservation Concern. The project must not involve impacts to~~
47 ~~wetlands identified as a wetland type of conservation concern. Wetlands of Conservation~~
48 ~~Concern are bogs, fens, playas, salt flats, alkaline lakes, hot springs, native wet prairies,~~
49 ~~vernal pools, inter-dunal wetlands, mature forested wetlands, ultramafic soil wetlands,~~
50 ~~wooded tidal wetlands, and un-diked tidal wetlands, as determined by the Department.~~

1
2 | **(123) Waste Disposal.** Old piling and other waste material discarded by the project must
3 be disposed of in an appropriate disposal facility. There must be no temporary storage of
4 piling or other waste material below top of bank, in any wetland, Federal Emergency
5 Management Administration designated floodway, or an area historically subject to
6 landslides.

7
8 | **(134) DSL May Halt or Modify.** DSL retains the authority to temporarily halt or modify
9 the project in case of unforeseen damage to natural resources.

10
11 | **(145) Work Area Isolation.** The work area must be isolated from the water during
12 construction. All structures and materials used to isolate the work area must be removed
13 immediately following construction and water flow returned to pre-construction
14 conditions. All fish must be salvaged from the isolated area in accordance with Oregon
15 Department of Fish and Wildlife requirements.

16
17 | **(165) Spoil Disposal.** Spoil materials, not used in the project, must be placed in an
18 upland location. Spoil materials used in the project must be included in the cumulative
19 removal-fill calculation for the activity.
20 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
21 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

22 |
23
24 **141-089-0655**

25
26 **Enforcement**

27
28 Failure to adhere to the terms of any general authorization when performing activities
29 authorized under this division, is a violation of the Removal-Fill Law and may be subject
30 to appropriate enforcement in accordance with OAR 141-085.

31 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

32 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

33 |
34
35 **141-089-0656**

36
37 **Authorization Decision Appeals**

38
39 A person whose project is determined by the Department to be ineligible for a General
40 Authorization may appeal the Department's decision according to OAR 141-085-0575(1),
41 (5) through (10) and OAR 141-085-0580.

42 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

43 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
2 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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5 **141-089-0675**

6

7

8 **Activity-Specific Conditions**

9

10 (1) General Conditions Apply. Projects eligible for this General Authorization must
11 adhere to the General Conditions listed under OAR 141-089-0650.

12

13 (2) Scientific Measurement. All scientific measurement devices, including all associated
14 structures and fills including anchoring devices, buoys and cables, must be removed
15 within 30 days after the research is completed.

16

17 (3) Surveys. The responsible party must isolate all in-stream exploratory trenching from
18 the active channel.

19

20 (4) Maintenance of Water Intakes. The responsible party must implement measures
21 necessary to prevent streambed gradient alterations and streambank erosion.

22

23 (5) Investigative Drilling and sampling. The responsible party must use existing roads,
24 paths and drilling pads where available. Temporary placement of mats is allowed to
25 provide site access. Temporary mats must be removed upon completion of the
26 authorized work

27

28 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **General Authorization for Piling Placement and Removal within ESH**

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4 **141-089-0680**

5
6 **Purpose**

7
8 These rules set forth the conditions under which a person may, without an individual
9 removal-fill permit from the Department, place or remove piling in waters of this state
10 designated as Essential Indigenous Anadromous Salmonid Habitat (ESH) as described
11 in OAR 141-102.

12 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

13 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
14 |

15
16 **141-089-0685**

17
18 **Eligibility Requirements**

19
20 To be eligible, a project must adhere to the following:

21
22 (1) **Purpose.** Individual piling and piling placed for over-water structure support (e.g.,
23 piling associated with docks, piers, boardwalks), mooring and turning dolphins,
24 navigational aids without footings or other support structure as approved by the
25 Department.

26
27 (2) **Piling Material.** Round steel piling 24 inches in diameter or smaller, steel H-piling
28 designated as HP24 (depth of section 24 inches or less) or smaller, or untreated wood,
29 pre-cast concrete or plastic piling.

30
31 (3) **Limited Placement.** Piling must be placed:

32
33 (a) So as not to form headwalls or other bank treatment structures;

34
35 (b) So as not to impede normal water flow into or within wetlands or deflect water in a
36 manner that causes erosion;

37
38 (c) So as not to create new uplands;

39
40 (d) In non-wetland waters;

41
42 (e) In non-tidal waters; and

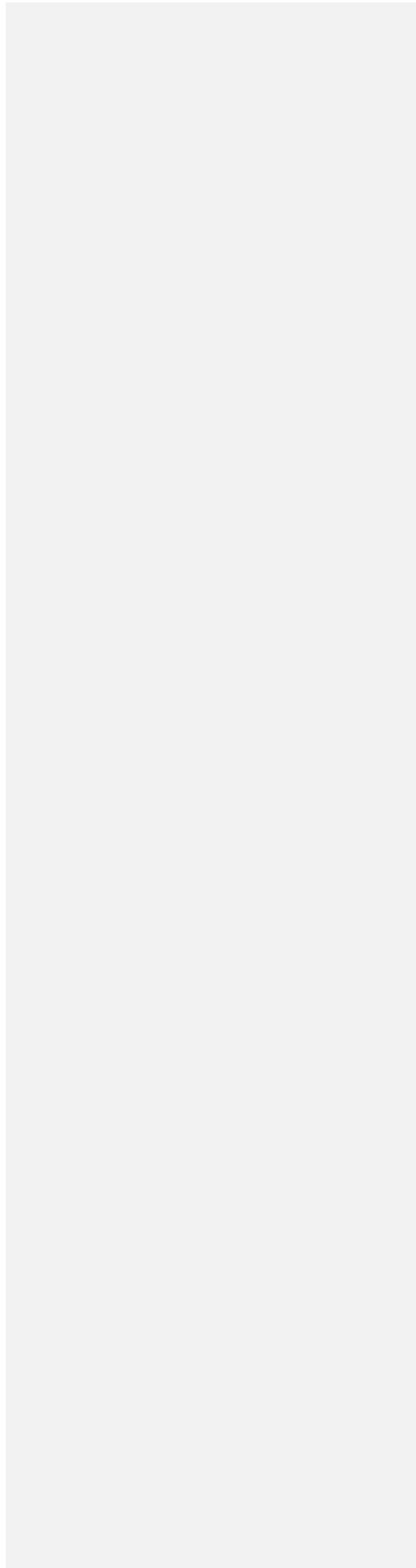
43
44 (f) By vibratory hammer or impact hammer, subject to the activity-specific conditions set
45 forth in OAR 141-089-0695. Hydraulic jetting is not allowed.

46
47 (4) **Removal.** Piling must be removed by means of vibratory method only according to
48 the activity-specific conditions set forth in OAR 141-089-0695.

49 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

50 | Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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1 **141-089-0690**

2
3 **Authorized Activities**

4
5 (1) **Number of Piling Installed is Limited.** Placement of no more than five pilings or one
6 dolphin consisting of three to five pilings; and

7
8 (2) **Number of Piling Removed is Limited.** Removal of no more than five pilings or one
9 dolphin consisting of three to five pilings.

10 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

11 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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13
14 **141-089-0695**

15
16 **Activity-Specific Conditions**

17
18 Projects eligible for this GA must adhere to the general conditions in OAR 141-089-0650
19 and the following activity-specific conditions:

20
21 (1) **Minimum Necessary.** Number of pilings must be the minimum necessary to fulfill the
22 essential purpose.

23
24 (2) **Sound Attenuation.** A vibratory hammer must be used whenever feasible. If an
25 impact hammer must be used to drive or proof steel piles, sound attenuation measures
26 including cushion blocks (wood blocks between pile and hammer) and bubble curtains
27 operated to distribute air bubbles around 100 percent of the piling for the full depth of the
28 water column must be used:

29
30 (a) If water velocity is 1.7 miles per hour or less, an unconfined bubble curtain may be
31 used; or

32
33 (b) If water velocity is greater than 1.7 miles per hour, a confined bubble curtain (e.g.,
34 bubble ring surrounded by fabric or metal sleeve) must be used.

35
36 (3) **Method for Removal of Piling.** Removal of piling must be conducted using a
37 vibratory method:

38
39 (a) Piling must not intentionally be broken by twisting or bending;

40
41 (b) Upon removal, piling must be handled to effectively contain all adhering sediment. All
42 return flows must meet state water quality standards; and

43
44 (c) Piling and containment materials must be disposed in an approved upland disposal
45 site.

46
47 (4) **Removal Problems in Uncontaminated Sediment.** If wood piling breaks above or
48 below the bed surface within an area of uncontaminated sediment, piling must be cut at
49 least three feet below the bed surface or otherwise pushed into that depth, then covered
50 with a cap of clean substrate.

- 1
2 (5) **Removal Problems in Contaminated Sediment.** If wood piling breaks above the
3 bed surface within an area of known contaminated sediment, piling must be cut at the
4 bed surface or otherwise pushed to that depth. If piling breaks in contaminated sediment
5 below the bed surface, no further attempt at removal may be made and the hole must be
6 covered with a cap of clean substrate.
7
8 (6) **Prevent Perching.** Piling must be fitted with devices to effectively prevent perching
9 by fish-eating bird species.
10
11 (7) **Barge or Top of Bank Position.** Piling must be placed or removed from a barge-
12 mounted or above top-of-bank position. If barge-mounted, barge must not at any time be
13 grounded in the bed or banks.
14 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
15 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **General Authorization for Temporary Impacts to Non-Tidal Wetlands**

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4 **141-089-0700**

5
6 **Purpose**

7
8 These rules set forth the conditions under which a person may, without an individual
9 removal-fill permit from the Department, temporarily place or remove material in non-tidal
10 wetlands. ~~for purposes of construction staging, placement or maintenance of utility lines~~
11 ~~or constructing temporary access.~~

12 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

13 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

14
15
16 **141-089-0705**

17
18 **Eligibility Requirements**

19
20 To be eligible, a project must adhere to the following:

21
22 (1) **Wetland Conversion.** Activities must not permanently convert wetland to upland.

23
24 (2) **Woody Vegetation.** The project must not convert forested or shrub wetlands to a
25 different Cowardin class.

26
27 (3) **Wetland Delineation and Concurrence.** A copy of a valid, Department-approved
28 wetland delineation map and concurrence letter must be provided with the notification,
29 unless otherwise directed by the Department.

30 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

31
32 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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34
35 **141-089-0710**

36
37 **Authorized Activities**

38
39 The project is limited to temporary impacts of 0.2 acres or less of non-tidal wetlands. This
40 threshold applies to all activities associated with the project (e.g., placement of the utility
41 lines, material stockpiling, equipment storage, staging and vehicle access).

42 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

43
44 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

45
46
47 **141-089-0715**

48
49 **Activity-Specific Conditions**

1 Projects eligible for this GA must adhere to the general conditions in OAR 141-089-0650
2 and the following activity-specific conditions:

3
4 (1) **Temporary Impact Rectification.** Rectification of temporary impacts includes re-
5 establishment of pre-existing contours and pre-existing vegetation.

6
7 (2) **Timing of Temporary Impact Rectification.** Re-establishment of pre-construction
8 contours and planting to re-vegetate temporarily disturbed areas must be completed
9 within 24 months of the initial impacts. However, if the temporary impact requires only
10 one construction season, site rectification must be completed immediately following
11 project completion and within the same construction season as the temporary impact.
12 Planting must include species of sufficient number, spacing, and diversity to replace
13 affected aquatic functions, be completed within six months of re-establishment of pre-
14 existing contours.

15
16 (3) **Post-Construction Report Required.** Within two years of planting, a report must be
17 submitted to the Department. The report must include:

18
19 (a) Data plots, according to OAR 141-090, to confirm that the wetland area impacted by
20 the project meets wetland criteria; and

21
22 (b) Photos taken at the previously established photo points.

23
24 (4) **Protection of Ground Surface.** Before placing temporary fill in wetlands, fabric must
25 be placed to allow complete removal of all temporary materials from the wetlands. If
26 necessary to assist with removal of the fill, chain link fence or similar material may be
27 placed under the fill. All fabric, fencing and other materials must be completely removed
28 at project completion.

29
30 (5) **Stockpile Topsoil.** When trenching, the upper 12 inches of topsoil must be removed
31 and stockpiled separately from subsurface soils and used as the final layer in backfilling.

32
33 (6) **Prevent Hydraulic Piping.** The project must be constructed to prevent underground
34 hydraulic piping to dewater the site or adjacent wetlands. If the native underlying soils are
35 not used as bedding material, and a coarser, non-native soil or other material is used,
36 preventive measures must be used such as restoration of the restrictive layer and
37 placement of clay or other impermeable plugs. Such plugs must be placed at each
38 wetland boundary.

39 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

40 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **General Authorization for Waterway Bank Stabilization**
2
3

4 **141-089-0720**

5
6 **Purpose**

7
8 These rules set forth the conditions under which a person may, without an individual
9 removal-fill permit from the Department, place or remove material in non-tidal waterways
10 for the purpose of stabilizing the actively eroding banks of non-tidal waters.

11 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

12 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
13 |

14
15 **141-089-0725**

16
17 **Eligibility**

18
19 To be eligible, a project must be for the purpose of bank stabilization in non-tidal waters
20 and meet the project criteria for the authorized activities listed in OAR 141-089-0730.

21 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

22 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
23 |

24
25 **141-089-0730**

26
27 **Authorized Activities**

28
29 (1) **Bio-Engineering.** This activity includes placement of woody vegetation, vegetated
30 geogrids, biodegradable logs, straw bales or straw logs used for bank protection, bank
31 reshaping, terracing and erosion control.

32
33 (2) **Bank Terracing.** This activity includes bank terracing and sloping to facilitate
34 establishment of woody vegetation. The project must meet the following criteria:

35
36 (a) The slope must not be steeper than 3:1 (H/V) ratio;

37
38 (b) Bank treatments must be replanted with native woody vegetation; and

39
40 (c) If fabric is necessary, no petroleum-based fabric is allowed.

41
42 (3) **Placement of Large Wood.** Trees or root wads may be used. The project must meet
43 the following criteria:

44
45 (a) Trees must have a trunk diameter greater than or equal to 12 inches;

46
47 (b) The basal ends must be oriented upstream;

48
49 (c) If fastening is necessary, only smooth, single-string wire, degradable rope or pinning
50 may be used. Braided wire cable is not allowed; and

- 1
2 (d) If anchoring is necessary, only rock ballast, untreated wood posts, stabilizing wood or
3 key pieces of wood may be used as anchors.
4
- 5 (4) **Engineered Log Jams.** Log jams may be placed in order to stabilize the bank for
6 woody vegetation establishment. The project must meet the following criteria:
7
- 8 (a) The length of key pieces of wood with trimmed rootwads must be one and one-half
9 times the bankfull width or a minimum of 25 feet in length when bankfull width exceeds
10 15 feet. The length of key pieces of wood with trimmed rootwads must be the twice the
11 bankfull width or a minimum of 30 feet in length when bankfull width exceeds 15 feet;
12
- 13 (b) Large wood must be intact, hard and undecayed to partially decayed hardwoods or
14 conifers;
15
- 16 (c) The log jam must not occupy more than 20 percent of the bankfull width;
17
- 18 (d) If fastening is necessary, only smooth, single-string wire, pinning or degradable rope
19 may be used. Braided wire cable is not allowed; and
20
- 21 (e) If anchoring is necessary, only rock ballast, untreated posts, stabilizing wood or key
22 pieces of wood may be used as anchors.
23
- 24 (5) **Log Toe Placement.** The project must meet the following criteria:
25
- 26 (a) Log toes must not extend more than one foot above the elevation of the water at base
27 flow; and
28
- 29 (b) Logs must be large enough to withstand the hydraulic energy in the stream and be
30 anchored securely to the bank by burial.
31
- 32 (6) **Porous Weir.** This activity includes the construction of a self-sustaining, low profile,
33 structure including but not limited to cross vanes and artificial riffles. A porous weir delays
34 but does not store water. It is used to redirect flow toward the center of the channel,
35 provide energy dissipation and promote increased sedimentation along banks while
36 allowing fish passage through a porous design. The project must meet the following
37 criteria:
38
- 39 (a) Porous weirs must be placed so scour pools occur in areas where pools would
40 naturally form in a pool and riffle complex;
41
- 42 (b) Porous weirs must not result in culvert inlet or outlet scour;
43
- 44 (c) Porous weirs must be sized appropriately for the system so as not to require annual
45 maintenance;
46
- 47 (d) Porous weirs must be constructed of materials that mimic natural substrate found
48 within the system;
49

1 (e) The structure must not exceed 100 cubic yards and 40% of the channel cross-section
2 width; and
3

4 (f) The activity is limited to 100 cubic yards for every one-half mile of waterway, unless
5 otherwise approved by the Department.

6 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

7 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
8 |
9

10 **141-089-0735**

11 **Activity-Specific Conditions**

12
13
14 Proposed projects eligible for this General Authorization must adhere to the general
15 conditions in OAR 141-089-0650 and the following activity-specific conditions:
16

17 (1) **Anchoring.** Anchoring materials must:

18 (a) Not restrict or redirect flows; and
19

20 (b) Be set below grade to minimize the appearance.
21

22 (2) **Ballast.** Use of rock and gravel for ballast and porous weirs is limited as follows:
23

24 (a) Only the minimal amount necessary may be used to achieve project objectives;
25

26 (b) Rock must be placed in a manner that does not increase the upland surface area;
27

28 (c) Rock must be placed in a way as to minimize adverse impacts to the active channel;
29

30 (d) All rock must be placed, not dumped, from above the bank line; and
31

32 (e) Only erosion resistant rock from an upland source may be used. No broken concrete
33 or asphalt is allowed.
34

35 (3) **Natural Materials.** Material used must be similar to materials currently or historically
36 found naturally in the stream reach.
37

38 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

39 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **General Authorization for Certain Transportation-Related Activities**

2
3
4 **141-089-0740**

5
6 **Purpose**

7
8 These rules set forth the conditions under which a person may, without an individual
9 removal-fill permit from the Department, fill or remove material in waters of this state for
10 certain transportation-related activities.

11 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

12 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
13 |

14
15 **141-089-0745**

16
17 **Eligibility Requirements**

18
19 (1) In order to be eligible, a project must be for one of the authorized activities listed in
20 OAR 141-089-0750.

21
22 (2) When replacing an existing culvert for fish passage under OAR 141-089-0750 (4),
23 notification must be accompanied by an ODFW-signed Fish Passage Plan for a Road
24 Stream Crossing.

25 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

26 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
27 |

28
29 **141-089-0750**

30
31 **Authorized Activities**

32
33 A project must adhere to the following:

34
35 (1) **Removal of Garbage.** Removal of garbage, trash and rubble (e.g., broken concrete,
36 broken asphalt, and metal waste) from in and around transportation structures is allowed
37 in all waters of this state when:

38
39 (a) The removal does not adversely affect woody vegetation, wetlands or waters;

40
41 (b) The trash, garbage and rubble removed under this GA are disposed at a facility
42 licensed to accept trash and garbage; and

43
44 (c) There is no stockpiling of removed garbage, trash and rubble within waters of this
45 state.

46
47 (2) **Large Wood Relocation.** Large wood located in and around transportation structures
48 may be relocated below the Ordinary High Water Line, below the highest measured tide,
49 and in wetlands.
50

1 (3) **Investigative Drilling.** Drilling of test holes and borings is allowed for the purposes of
2 planning and designing a transportation structure.
3

4 (4) **Replacement of Existing Culverts for Fish Passage.** Culvert replacement for fish
5 passage is allowed when the new footprint of the structure exceeds the exempt
6 maintenance allowance.

7 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

8 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
9

10

11 **141-089-0755**

12

13 **Activity-Specific Conditions**

14

15 Proposed projects eligible for this GA must adhere to the general conditions listed in
16 OAR 141-089-0650.

17 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

18 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **General Authorization for Removing and Disposing**
2 **of Sediment Behind Tidegates and within Hydraulically Closed Perimeters**

3
4
5 **141-089-0760**

6
7 **Purpose**

8
9 (1) These rules set forth conditions under which a project proponent may, without an
10 individual removal-fill permit from the Department, dispose (fill), and place (fill), remove
11 (removal), or alter material in waters of this state for the purposes of removing and
12 disposing of sediment while maintaining or cleaning natural or artificially created drainage
13 ditches upstream from tidegates and within hydraulically closed perimeters. For the
14 purposes of this General Authorization, “hydraulically closed perimeters” means, all water
15 flow and hydraulic connectivity to the surrounding watershed is controlled by pumps.
16

17 (2) This general authorization is exclusive to:

18
19 (a) The disposal of sediments within waters of this state, such as wetlands, removed as a
20 result of ditch maintenance and cleaning in drainage ditches upstream of tidegates; and
21

22 (b) The removal of material from drainage ditches (cleaning) upstream of tidegates that
23 does not meet the requirements described in OAR 141-089-0760(4) below.
24

25 (3) Drainage ditches that have a free and open connection to other natural waterways
26 and are presumed to contain food and game fish are waters of this state.
27

28 (4) The regular maintenance of ditches as defined in OAR 141-085-0510(26) is exempt
29 from regulation under the Removal-Fill Law and this General Authorization as set forth in
30 OAR 141-085-0535(8).
31

32 (5) The placement of sediment removed from drainage ditches on wetlands may be an
33 activity subject to the Removal-Fill Law, OAR 141-085 and this General Authorization.
34

35 (6) A notification must be sent to the Department before any person starts an activity
36 authorized by this General Authorization. The term and conditions of issuance shall be
37 stated in the approved notification. The term shall not exceed the expiration date on the
38 approved notification.
39

40 (7) This General Authorization is made pursuant to ORS 196.850 and is based on the
41 determination that the authorized activities are similar in nature and when conducted in
42 accordance with this general authorization rule will not result in long-term harm to water
43 resources of the state, and will cause only minimal individual and cumulative
44 environmental effects.
45

46 (8) This General Authorization does not apply to activities or waters exempt from the
47 Removal-Fill Law as described in OAR 141-085.
48

49 (9) Other structures, uses and activities included in the notification for this General
50 Authorization that are subject to another general authorization under OAR 141-089 or

1 individual permit under OAR 141-085 will not be authorized or covered by this General
2 Authorization. An application encompassing multiple activities must be processed as an
3 individual removal-fill permit under OAR 141-085.

4
5 (10) Unless otherwise specified, the terms used in this General Authorization are defined
6 in OAR 141-085.

7
8 (11) In the event a dispute arises about the applicability of this General Authorization to
9 any project notification, the Department shall make the final determination. The
10 Department shall rely on the responsible party's notification and supporting
11 documentation for its decision.

12
13 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

14 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

15 Hist.: DSL 6-2002, f. 11-25-02 cert. ef. 1-15-03; DSL 1-2004, f. & cert. ef. 5-21-04; DSL
16 6-2007, f. 12-13-07, cert. ef. 1-1-08; DSL 2-2009, f. 2-13-09, cert. ef. 3-1-09

17
18 **141-089-0765**

19
20
21 **Eligibility Requirements; Ineligible Projects**

22
23 (1) This rule sets forth conditions under which a person may, without an individual
24 removal-fill permit from the Department, place or remove material within waters of this
25 state, excluding State Scenic Waterways, as defined in OAR 141-085 for the purposes
26 set forth in this GA. The activity must:

27
28 (a) Be conducted for the specific purpose of disposal of sediments within waters of this
29 state (e.g. wetlands) as a result of maintenance/cleaning of drainage ditches upstream of
30 tidegates and within hydraulically closed perimeters; or

31
32 (b) Be conducted for the specific purpose of the removal of material (cleaning) from
33 drainage ditches upstream of tidegates and within hydraulically closed perimeters that
34 does not meet the requirements described in OAR 141-089-0760(4) above; and

35
36 (c) Remove, fill or alter 50 or more cubic yards in waters of this state.

37
38 (2) A project is not eligible for this general authorization if:

39
40 (a) The project fails to meet any eligibility or mandatory requirements; or

41
42 (b) The project notification includes any structure, use or activity subject to another
43 general authorization under OAR 141-089 or individual permits under OAR 141-085.

44
45 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

46 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

47 Hist.: DSL 6-2002, f. 11-25-02 cert. ef. 1-15-03; DSL 1-2004, f. & cert. ef. 5-21-04; DSL
48 6-2007, f. 12-13-07, cert. ef. 1-1-08

1 **141-089-0770**

2
3 **Mandatory Requirements**

4
5 The Department will review each notification to ensure that a project complies with the
6 following mandatory requirements:

7
8 (1) The removal of sediments from drainage ditches must be kept to the minimum
9 amount necessary to remove recently deposited materials. Additional channel widening
10 or deepening beyond that amount is not allowed under this General Authorization.

11
12 (2) The sediments removed from drainage ditches may be spread in a thin layer (three
13 inches or less) on farmed wetland or wet pasture provided the effects are temporary and
14 there is no permanent conversion from wetland to upland. Freshwater wetland (other
15 than farmed wetland or wet pasture mentioned above), salt marsh, tidal flats or
16 permanent or semi-permanent open water areas must not be used for sediment disposal.

17
18 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

19 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

20 Hist.: DSL 6-2002, f. 11-25-02 cert. ef. 1-15-03; DSL 1-2004, f. & cert. ef. 5-21-04; DSL
21 6-2007, f. 12-13-07, cert. ef. 1-1-08

22
23
24 **141-089-0775**

25
26 **Conditions of Issuance of General Authorization**

27
28 Responsible parties must adhere to the conditions of the general authorization.

29
30 (1) The responsible party must conduct all work in compliance with the comprehensive
31 plan, zoning requirements and other local, state and federal regulations pertaining to the
32 project. Local land use planning department approval must be obtained if the project is
33 located within a Federal Emergency Management Agency designated floodway. All other
34 necessary approvals and permits must be obtained before starting the authorized project.
35 All necessary approvals and permits must be obtained before starting the project under
36 this General Authorization.

37
38 (2) The responsible party must obtain all necessary access permits or rights-of-way prior
39 to entering lands owned by another for the purposes of completing a project authorized
40 under this general authorization.

41
42 (3) The responsible party must conduct the activity during the time period recommended
43 by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a
44 waiver is granted by Department for a longer or alternative time period. Work is
45 prohibited when fish eggs are present within the reach where activities are being
46 conducted.

47
48 (4) The responsible party must ensure that the activity will not interfere with fish passage,
49 as required by the Oregon Department of Fish and Wildlife.

- 1 (5) When listed species are present, the responsible party must comply with the state
2 and Federal Endangered Species Acts. If previously unknown listed species are
3 encountered during the project, the responsible party must contact the Department as
4 soon as possible.
5
- 6 (6) The responsible party must not disturb or destroy known archeological sites unless
7 authorized under a permit issued by the State Historic Preservation Office. When
8 previously unknown occurrences of archeological sites are discovered during
9 construction, the responsible party must immediately stop work at the discovery site and
10 contact the Department.
11
- 12 (7) The responsible party must ensure that the authorized work does not unreasonably
13 interfere with or create a hazard to recreational navigation.
14
- 15 (8) The responsible party must ensure that woody vegetation removal is limited to the
16 minimum amount needed to complete the project including construction access.
17
- 18 (9) The responsible party must ensure that areas disturbed in the course of completing
19 the authorized work are stabilized with the appropriate erosion control best management
20 practices and re-vegetated with the same mix of native herbs, shrubs and/or trees in
21 approximately the same numeric proportion as were removed from the site, unless
22 otherwise approved by the Department. Grass seed mixes of exotic and certified-free of
23 noxious weeds that will hold the soil and not persist, are permitted.
24
- 25 (10) The responsible party must ensure that no petroleum products, chemicals or
26 deleterious materials are allowed to enter the waters of this state.
27
- 28 (11) The responsible party must adhere to all applicable Department of Environmental
29 Quality (DEQ) water quality requirements. If a 401 Water Quality Certification (WQC) is
30 issued by DEQ in conjunction with a US Army Corps of Engineers 404 permit for the
31 same project, the water quality conditions in the 401 WQC will govern water quality
32 requirements pertaining to the authorized removal-fill activity. In this event, a copy of the
33 401 Water Quality Certification must be retained on site.
34
- 35 (12) For drainage ditch cleaning activities, the responsible party must comply with the
36 following:
37
- 38 (a) Removal of existing woody vegetation, other than that growing within the maintained
39 channel bed is prohibited;
40
- 41 (b) Only sand and silt sediments may be removed. This General Authorization is not for
42 the removal of gravel;
43
- 44 (c) Erosion of disturbed areas (e.g., drainage ditch banks and work areas) must be
45 minimized through re-vegetation with grass and/or planting of trees and shrubs;
46
- 47 (d) Removal must be conducted with land-based equipment from one side of the
48 drainage ditch unless specifically authorized by the Department;
49

- 1 (e) At any time excavated material is placed on adjacent dikes it must be stabilized to
2 eliminate erosion back into the drainage ditch; and
3
- 4 (f) If excavated material is to be thinly spread over adjacent wetland, wet pasture or
5 farmed wetland, it is to be spread before the onset of winter rains, and controlled from
6 eroding back into the drainage ditch.
7
- 8 (13) The responsible party must not remove and/or dispose of sediments in violation of
9 the applicable state water quality standards.
10
- 11 (14) The responsible party must keep a copy of the approved notification available at the
12 work site whenever the authorized activity is being conducted.
13
- 14 (15) Employees of the Department and all duly authorized representatives must be
15 permitted access to the project area at all reasonable times for the purpose of inspecting
16 work performed under this General Authorization.
17
- 18 (16) The Department makes no representation regarding the quality or adequacy of the
19 project design, materials, construction, or maintenance, except to approve the project's
20 design and materials as satisfying the resource protection, scenic, safety, recreation, and
21 public access requirements of ORS Chapters 196 and related administrative rules.
22
- 23 (17) The State of Oregon, and its officers, agents and employees must be held harmless
24 from any claim, suit or action for property damage or personal injury or death arising out
25 of the design, material, construction or maintenance of the authorized improvements.
26
- 27 (18) The Department may add other project-specific conditions to the approved
28 notification as necessary to meet the requirements of this General Authorization. Such
29 additional conditions may be needed to ensure that the project will cause only minimal
30 individual and cumulative environmental effects and will not result in long-term harm to
31 water resources of the state.
32
- 33 (19) The Department may, at any time, by notice to affected responsible parties, revoke
34 or modify any approved notification of a project granted under this General Authorization
35 if it determines the conditions of the General Authorization are insufficient to minimize
36 individual or cumulative environmental effects.
37
- 38 (20) The responsible party is responsible for the activities of all contractors or other
39 operators involved in project work covered by the notification.
40
- 41 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
42 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
43 Hist.: DSL 6-2002, f. 11-25-02 cert. ef. 1-15-03; DSL 1-2004, f. & cert. ef. 5-21-04; DSL
44 5-2005, f. 12-30-05, cert. ef. 1-3-06; DSL 6-2007, f. 12-13-07, cert. ef. 1-1-08; DSL 2-
45 2009, f. 2-13-09, cert. ef. 3-1-09
46

1 **General Authorization for Waterway Habitat Restoration**

2
3
4 **141-089-0780**

5
6 **Purpose**

7
8 These rules set forth the conditions under which a person may, without an individual
9 removal-fill permit from the Department, place or remove material in waterways of this
10 state for the purpose of improving aquatic habitat and facilitating species recovery in
11 waterways.

12 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

13 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
14 |

15
16 **141-089-0785**

17
18 **Eligibility Requirements**

19
20 Projects eligible for this general authorization must be for the purpose of waterway
21 habitat restoration.

22 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

23 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
24 |

25
26 **141-089-0790**

27
28 **Authorized Activities**

29
30 The following activities may be combined for a single project and the volume thresholds
31 for each activity may be calculated separately:

32
33 (1) **Barrier Removal.** Barriers may be removed to reconnect waterway corridors,
34 reestablish wetlands, restore natural channel and flow conditions, and assist fish and
35 wildlife movement. The project must meet the following criteria:

36
37 (a) Removal is limited to artificially created barriers including, but not limited to culverts,
38 dams, earthen embankments, spillway systems, tidegates, outfalls and pipes; and

39
40 (b) Cumulative removal-fill volume for this activity must not exceed 200 cubic yards.

41
42 (2) **Grade Control.** This activity includes construction of grade control structures to
43 stabilize channel grade, reduce erosion, reconnect a waterway to the floodplain or
44 reduce channel incision. The project must meet the following criteria:

45
46 (a) Grade control structures must be constructed of materials that mimic natural
47 substrate found within the system;

48
49 (b) Grade control structures must be sized appropriately for the system to prevent
50 creating a fish passage barrier or require annual maintenance; and

- 1
2 (c) The activity is limited to 100 cubic yards for every one-half mile of waterway, unless
3 otherwise approved by the Department.
4
- 5 (3) **Fish and Wildlife Passage.** This activity includes installation or replacement of fish
6 passage structures including, but not limited to vertical slot fishways, nature-like fishways
7 and lamprey ramps to aid fish and/or wildlife passage. The project must meet the
8 following criteria:
9
- 10 (a) Oregon Department of Fish and Wildlife (ODFW) must be notified;
11
- 12 (b) Passage structures must be designed to consider the velocity, depth, pool-length and
13 jump-height preferences of native species;
14
- 15 (c) Passage structures must be sized appropriately for the system yet be stable; and
16
- 17 (d) The activity is limited to 100 cubic yards for every one-half mile of waterway, unless
18 otherwise approved by the Department.
19
- 20 (4) **Installation or Replacement of Fish Screening Structures.** The project must meet
21 the following criteria:
22
- 23 (a) Oregon Department of Fish and Wildlife (ODFW) must be notified;
24
- 25 (b) Screens must meet ODFW fish screen criteria; and
26
- 27 (c) Cumulative removal-fill for this activity must not exceed 100 cubic yards in waters of
28 this state.
29
- 30 (5) **Porous Weir.** This activity includes the construction of a self-sustaining, low profile,
31 structure. A porous weir delays but does not store water. It is used to redirect flow toward
32 the center of the channel, provide energy dissipation and promote increased
33 sedimentation along banks while allowing fish passage through a porous design. This
34 activity includes, but is not limited to cross vanes and artificial riffles. The project must
35 meet the following criteria:
36
- 37 (a) Porous weirs must be placed so scour pools occur in areas where pools would
38 naturally form in a pool and riffle complex;
39
- 40 (b) Porous weirs must not result in culvert inlet or outlet scour;
41
- 42 (c) Porous weirs must be sized appropriately for the system so as not to require annual
43 maintenance;
44
- 45 (d) Porous weirs must be constructed of materials that mimic natural substrate found
46 within the system;
47
- 48 (e) The structure must not exceed 100 cubic yards and 40% of the channel cross-section
49 width; and
50

1 (f) The activity is limited to 100 cubic yards for every one-half mile of waterway, unless
2 otherwise approved by the Department.

3
4 (6) **Side Channel and Alcove Habitat.** This activity is limited to reconnecting existing
5 side channel or alcove habitat, as follows:

6
7 (a) Cumulative removal-fill volume may not exceed 200 cubic yards unless otherwise
8 approved by the Department;

9
10 (b) Reconnection consists only of the removal of artificial barriers; and

11
12 (c) The side channel or alcove being reconnected must be naturally formed and does not
13 require alteration or reconstruction.

14
15 (d) Remove or Replace Existing Culverts and Tide Gates for Fish Passage. Tide
16 gate and culvert replacement for fish passage through the installation of a larger culvert
17 or for replacing the culvert with a bridge is allowed when:

18
19 (A) The new culvert or tidegate is not exempt ; and

20
21 (B) The Project is consistent with ODFW Fish Passage Statutes, as evidenced in writing
22 by an ODFW fisheries biologist.

23 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

24 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

25
26
27 **141-089-0795**

28 **Activity-Specific Conditions**

29 Proposed projects eligible for this General Authorization must adhere to the general
30 conditions in OAR 141-089-0650 and the following activity-specific conditions:

31
32 (1) **Anchoring.** Anchoring materials must not restrict or redirect flows, be set below
33 grade to minimize the appearance, and be placed in areas naturally containing such
34 material.

35
36 (2) **Rock and Gravel Placement.** Rock and gravel placement are subject to the following
37 conditions:

38 (a) Only the minimal amount necessary may be used to achieve project objectives;

39 (b) Rock must be placed in a manner that does not increase the upland surface area;

40 (c) Rock must be placed to minimize adverse impacts to the active channel;

41 (d) All rock must be placed, not dumped, from above the bank line; and

42 (e) Only erosion-resistant rock from an upland source may be used. No broken concrete
43 or asphalt is allowed.

- 1
2 (3) **Natural Materials.** Material used must be similar to materials currently or historically
3 found naturally in the stream reach.
4
- 5 (4) **Self Sustaining.** Activities other than installation or replacement of passage
6 structures or fish screens must be self-sustaining and not require annual maintenance or
7 manipulation.
8
- 9 (5) **Post-Project Reporting.** Upon completion of the project, the project must be
10 reported to the Oregon Watershed Enhancement Board at <http://www.oregon.gov/OWEB>
11 by completing the Oregon Watershed Restoration Inventory (OWRI) form. The DSL
12 General Authorization number must be included on the reporting form.
13 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
14 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **General Authorization for Wetland Ecosystem Restoration**
2
3

4 **141-089-0800**
5

6 **Purpose**
7

8 These rules set forth the conditions under which a person may, without an individual
9 removal-fill permit from the Department, carry out restoration activities for the purpose of
10 wetland ecosystem restoration. Under this General Authorization (GA), wetland
11 ecosystem restoration means the manipulation of the physical, chemical or biological
12 characteristics of a site with the goal of returning natural or historical functions to a
13 disturbed or altered wetland.

14 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

15 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
16
17

18 **141-089-0805**
19

20 **Eligibility Requirements**
21

22 (1) **Project Purpose.** The project purpose is to improve the existing condition of a site to
23 repair (rehabilitate) or return (re-establish) natural or historical functions to a disturbed or
24 former wetland. The project may not be for the purpose of altering a site to produce
25 conditions that did not previously exist in order to augment specific functions.
26

27 (2) **Compatible with Management Plans.** The project must not be detrimental to
28 existing functions and values that address problems identified in a watershed
29 management plan or water quality management plan.
30

31 (3) **Evidence Required.** Current site conditions must exhibit alterations in topography,
32 soils, native vegetation or hydrology that have resulted in wetland loss or wetland
33 disturbance that is potentially reversible.
34

35 (4) **Conversion.** The project will not result in conversion of wetlands to uplands and will
36 not include the conversion of existing, functional wetland ecosystems to another aquatic
37 use.
38

39 (5) **Minimal Adverse Impacts.** The project will not cause more than minimal adverse
40 impacts to undisturbed wetland communities on-site or adjacent to the site.
41

42 (6) **Non-native Species** The project will not involve the introduction of non-native plants
43 other than for temporary soil stabilization. Native seed mixes are preferred. When native
44 seed mix is not available, non-native seed mix that will hold the soil and not persist may
45 be used if certified free of noxious weeds.
46

47 (7) **Hydrology.** Hydrologic manipulation must result in the hydrology of the restored site
48 approximating the conditions that existed before the disturbance or alteration, to the
49 extent practicable. Hydrology conditions include timing of inflow and outflow, duration,
50 frequency and hydroperiod.

1
2 (8) **Consistent with Wetland Conservation Plan.** If the project is in an area for which
3 there is a Department-approved Wetland Conservation Plan, the activities must be in
4 conformance with that plan.

5
6 (9) **Compensatory Mitigation.** Projects cannot be for the purpose of constructing
7 compensatory wetland mitigation.
8 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
9 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

10 |
11
12 **141-089-0810**

13
14 **Authorized Activities**

15
16 The following activities are allowed under this general authorization:

17
18 (1) **Vegetation Management.** Ground-altering activities needed to re-establish and
19 maintain native vegetation, such as mechanized land clearing to remove non-native
20 vegetation and disking for seedbed preparation and planting of native wetland species.

21
22 (2) **Floodplain Contouring.** Floodplain contouring of wetland terraces to reconnect a
23 waterway to an adjacent wetland or expand the area of seasonal inundation. This activity
24 does not include modification of a stream channel.

25
26 (3) **Microtopography Establishment.** Grading and contouring to re-establish
27 microtopography (hummocks, minor ridges, very shallow depressions) in areas that have
28 been previously leveled, scalped or otherwise disturbed to eliminate pre-existing
29 microtopography. Activity is limited to six-inch maximum elevation rise or drop.

30
31 (4) **Macrotopography Establishment.** Shallow excavation to create scrapes, basins,
32 meanders and swales that do not exceed two feet in depth from existing or original
33 ground surface and have minimum side slopes of 6:1 or gentler. If shallow excavation is
34 combined with berm construction described in Section 6 of this rule, the maximum depth
35 of inundation must not exceed two feet.

36
37 (5) **Removal of Materials.** Removal of soil or other materials that have been placed in a
38 wetland for the purpose of restoring the natural and/or historical topography.

39
40 (6) **Low Earthen Berms and Spillways.** Construction of low earthen berms and
41 vegetated spillways that impede, contain or direct surface water may be used to extend
42 the area or duration of shallow inundation. The design height of the berms must be no
43 more than 18 inches from the existing ground level and have a maximum top width of
44 four feet, variable slopes at a minimum of 6:1 or gentler on the water side, and maximum
45 slopes of 6:1 on the land side, unless gentler slopes do not result in the conversion of
46 wetland to upland. These structures may be installed to manipulate seasonal water
47 depth, duration and degree of fluctuation that would be characteristic of natural or
48 historical hydrologic conditions and to manage invasive species. When berms are
49 combined with shallow excavation described in Section (4) of this rule, the maximum
50 depth of inundation must not exceed two feet.

1
2 (7) **Removal of Structures.** Removal of diversion structures, water control structures,
3 small (three feet high or less) berms and tidegates, as long as the removal does not
4 cause water to rise or be redirected in such a manner to result in damage to structures or
5 substantial property.
6 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
7 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
8 |
9

10 **141-089-0815**

11
12 **Activity-Specific Conditions**

13
14 Proposed projects eligible for this General Authorization must adhere to the general
15 conditions in OAR 141-089-0650 and the following activity-specific conditions:
16

17 (1) **Invasive Species.** Persons must control invasive species and comply with Oregon’s
18 weed laws (ORS Chapters 452, 561 and 570); and
19

20 (2) **Post-Project Reporting.** Upon completion of the project, the project must be
21 reported to the Oregon Watershed Enhancement Board at <http://www.oregon.gov/OWEB>
22 by completing the Oregon Watershed Restoration Inventory (OWRI) form. The DSL
23 General Authorization number is required to be included on the reporting form.
24 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
25 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
26

1 |
2 | **General Authorization for Recreational Placer Mining**
3 | **within ESH that is Not Designated SSW**
4 |

5 |
6 | **141-089-0820**

7 |
8 | **Purpose**
9 |

10 | These rules set forth conditions under which a person may, without an individual
11 | removal-fill permit from the Department, fill, remove and move material in waters of this
12 | state for the purpose of recreational placer mining within areas designated as Essential
13 | Indigenous Anadromous Salmonid Habitat (ESH) that is not designated as State Scenic
14 | Waterway (SSW).

15 | Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

16 | Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
17 |

18 |
19 | **141-089-0825**

20 |
21 | **Eligibility Requirements**
22 |

23 | (1) **Purpose.** The activity is for the specific purpose of recreational placer mining.
24 |

25 | (2) **Essential Salmonid Habitat.** The activity is conducted within ESH.
26 |

27 | (3) **Threshold.** The activity will remove, fill or move less than twenty-five (25) cubic yards
28 | of material annually from or within the bed of ~~a~~-streamss designated as ESH.
29 |

30 | (4) **Wetted Perimeter.** The activity is confined to the wetted perimeter.
31 |

32 | (5) **Disturbance of Woody Vegetation.** The activity does not disturb the streambank,
33 | including any rooted or embedded woody plants below the Ordinary High Water Line.
34 |

35 | (6) **Fish Passage.** The activity does not divert a waterway or obstruct fish passage.
36 |

37 | (7) **Minimization of Impounded Water.** The activity creates only the minimal area of
38 | impounded water necessary to operate the dredge and the impoundment structure is
39 | removed immediately upon completion of the mining activity.
40 |

41 | (8) **No Disturbance of Stream Structure.** No movement is allowed of boulders, logs,
42 | stumps or other woody material from within the wet perimeter other than movement by
43 | hand and non-motorized equipment.
44 |

45 | (9) **Dredge Intake Nozzle Limited.** If a motorized suction dredge is used, it must have
46 | an intake nozzle that has an inside diameter not exceeding four inches.
47 |

48 | (10) **Expiration of Recreational Placer Mining Authorizations.** Authorizations issued
49 | under the Recreational Placer Mining GA expire on December 31 of each year.
50 |

1 (11) **Renewal.** Renewal of the authorization will require submission of a completed
2 Recreational Placer Mining Report for the previous year to the Department.
3 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
4 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

5
6
7 **141-089-0830**

8
9 **Authorized Activities**

10
11 Recreational placer mining in Essential Indigenous Anadromous Salmonid Habitat
12 including motorized suction dredging, not to exceed 25 cubic yards annually.
13 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
14 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

15
16
17 **141-089-0835**

18
19 **Activity-Specific Conditions**

20
21 Proposed projects eligible for this General Authorization must adhere to the general
22 conditions in OAR 141-089-0650, except that for OAR 141-089-0650(10) condition
23 language specific to refueling. For recreational placer mining OAR 141-089-0650(10)
24 refueling language is replaced by OAR 141-089-0835(8) below. and Tthe following
25 activity-specific conditions also apply:

26
27 (1) **Prevent Fish Stranding.** Upon completion of the activity at a given location, the
28 responsible party must level all piles and fill all furrows, potholes and other depressions
29 created by the activity.

30
31 (2) **Wetted Perimeter.** The activity is confined to the wetted perimeter. The wet
32 perimeter is the area of the stream that is under water or is exposed as a non-vegetated,
33 dry gravel-bar island surrounded on all sides by actively moving water at the time the
34 activity occurs.

35
36 (3) **Disturbance of Woody Vegetation.** The activity does not disturb the streambank,
37 including any rooted or embedded woody plants below the Ordinary High Water Line.

38
39 (4) **Fish Passage.** The activity does not divert a waterway or obstruct fish passage.

40
41 (5) **Minimization of Impounded Water.** The activity may impound only the minimal area
42 of water necessary to operate the dredge under the following conditions:

43
44 (a) The temporary dam does not extend across more than 75% of the wetted perimeter;

45
46 (b) The designs for the temporary dam are consistent with ODFW requirements set forth
47 in ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040;

48
49 (c) All in-water work is performed during the recommended ODFW in-water work window;
50 and

- 1
2 (d) The impoundment structure is removed immediately upon completion of the mining
3 activity.
- 4 ~~(5) **Minimization of Impounded Water.** The activity may impound creates only the~~
5 ~~minimal area of impounded water necessary to operate the dredge under the following~~
6 ~~conditions:~~
- 7
- 8 ~~(a) The temporary dam does not extend across the entire waterway;~~
- 9
- 10 ~~(b) The structure allows unobstructed flow of water in an amount sufficient to enable fish~~
11 ~~to travel unimpeded up and down stream; and~~
- 12
- 13 ~~(c) The impoundment structure is removed immediately upon completion of the mining~~
14 ~~activity.~~
- 15
- 16 (6) **No Disturbance of Stream Structure.** No movement is allowed of boulders, logs,
17 stumps or other woody material from within the wet perimeter other than movement by
18 hand and non-motorized equipment.
- 19
- 20 (7) **Dredge Intake Nozzle Limited.** If a motorized suction dredge is used, it must have
21 an intake nozzle that has an inside diameter not exceeding four inches.
- 22
- 23 (8) **Refueling.** All fuel and oil must be stored in an impermeable container and must be
24 located at least 25 feet from the wet perimeter of the stream. For dredge locations where
25 a 25 foot buffer is not possible, addition precaution must be taken to ensure that
26 petroleum products cannot spill or otherwise enter the stream.
- 27
- 28 ~~(98) **Annual Report Required.** By December 31 of each year, the responsible party~~
29 ~~must submit to the Department an annual report, on a form provided by the Department,~~
30 ~~the estimated amount of material filled, removed or moved in each specific waterway~~
31 ~~mined during the preceding calendar year. When no jurisdictional activity was conducted,~~
32 ~~the report must be submitted reporting zero cubic yards for the year.~~
33 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
34 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
35