

DEPARTMENT OF STATE LANDS

DIVISION 89

ADMINISTRATIVE RULES GOVERNING THE ISSUANCE AND ENFORCEMENT OF GENERAL AUTHORIZATIONS WITHIN WATERS OF THIS STATE

141-089-0620

General

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

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

(3) **Previous GAs Repealed.** OAR 141-089-0095 through 141-089-0615 were repealed on March 1, 2011.

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

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

141-089-0625

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

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

(2) **Establishment.** General Authorizations are adopted, amended and repealed as administrative rules in accordance with the Administrative Procedure Act (ORS 183.310 through 183.550). A General Authorization may be granted on a statewide or other geographic basis.

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

(a) Are substantially similar in nature;

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

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

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

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

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

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

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

141-089-0630

Project Applicability

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

(a) A State Scenic Waterway; or

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

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

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

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

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

- (a) Waterway Habitat Restoration;
- (b) Wetland Ecosystem Restoration;
- (c) Waterway Bank Stabilization;
- (d) Piling Placement and Removal;
- (e) Certain Transportation-Related Activities in ESH; and
- (f) Temporary Impacts to Non-Tidal Wetlands.

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

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

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

141-089-0635

Fees; Disposition of Fees

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

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

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

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

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

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

141-089-0640

Pre-Construction Notification

(1) **Project Notification Required.** A complete project notification must be submitted to the Department at least 30 calendar days before starting the project. A complete notification is one that contains all the information required on the form provided by the Department and all required attachments.

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

(a) The notification is complete and the project is eligible under the GA;

(b) The notification is incomplete and the person must supply certain specified missing, inaccurate or insufficient information. The person may amend and resubmit the notification within 120 calendar days of the notice for reconsideration, unless instructed by the Department to do otherwise. Submission of an amended notification starts a new 30-day review period; or

(c) The project is ineligible for certain specified reasons. The person may then either revise the project and submit for reconsideration within 120 days of the notification or apply for an individual permit under OAR 141-085. Submission of an amended notification commences a new 30-day review period.

(3) **Timeframe for Resubmittal of Incomplete or Ineligible Notifications.** If a revised notification or application is not resubmitted within 120 calendar days of an incompleteness or ineligible determination, the Department will presume that the responsible party does not intend to provide revisions to the notification and may administratively close the file. If the Department closes the file under these circumstances, the Department will retain the application fee. If the Department receives a subsequent notification or application for the same or similar project after a file has been closed, the responsible party must pay any applicable fees for the new notification at time of submission.

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

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

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

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

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

141-089-0645

Expiration of Project Eligibility

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

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

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

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

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

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

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

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

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

141-089-0650

General Conditions

The following conditions apply to all general authorizations, unless otherwise specified in a specific GA or an authorization issued under a GA:

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

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

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

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

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

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

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

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

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

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

(b) Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures must be used to prevent movement of soil into waterways and wetlands;

(c) To prevent erosion, use of compost berms, impervious materials or other equally effective methods, must be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours;

(d) Unless part of the permanent fill, all construction access points through, and staging areas in, riparian and wetland areas must use removable pads or mats to prevent soil

compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities must be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control if native vegetation is unavailable. If soils are to remain exposed for more than seven days after completion of the permitted work, they must be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed;

(e) Where vegetation is used for erosion control on slopes steeper than 2:1, tackified seed mulch must be used so the seed does not wash away before germination and rooting;

(f) Dredged or other excavated material must be placed on upland areas having stable slopes and must be prevented from eroding back into waterways and wetlands;

(g) Erosion control measures must be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized; and

(h) All erosion control structures must be removed when the project is complete and soils are stabilized and vegetated.

(10) **Hazardous, Toxic, and Waste Material Handling.** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, wood treated with leachable preservatives or other deleterious waste materials must not be allowed to enter waters of this state. Machinery refueling is to occur at least 150 feet from waters of this state and confined in a designated area to prevent spillage into waters of this state. Barges must have a containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state must be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

(11) **Raising or Redirecting Water.** The project must not cause water to rise or be redirected and result in damage to structures or property.

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

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

(14) **Work Area Isolation.** The work area must be isolated from the water during construction. All structures and materials used to isolate the work area must be removed immediately following construction and water flow returned to pre-construction

conditions. All fish must be salvaged from the isolated area in accordance with Oregon Department of Fish and Wildlife requirements.

(15) **Spoil Disposal.** Spoil materials, not used in the project, must be placed in an upland location. Spoil materials used in the project must be included in the cumulative removal-fill calculation for the activity.

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

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

141-089-0655

Enforcement

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

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

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

141-089-0656

Authorization Decision Appeals

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

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

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

General Authorization for Certain Minimal Disturbance Activities within ESH

141-089-0660

Purpose

These rules set forth the conditions under which a person may, without an individual removal-fill permit from the Department, fill, remove or move small quantities of material for certain activities within waters of this state designated Essential Indigenous Anadromous Salmonid Habitat (ESH).

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

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

141-089-0665

Eligibility Requirements

Activities are limited to four cubic yards of removal and fill at any individual site and, cumulatively, not more than 10 cubic yards of removal and fill within a designated ESH stream for the entire project.

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

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

141-089-0670

Authorized Activities

Eligible projects are limited to the following:

(1) **Investigative Drilling and Sampling.** Removal and fill for investigative drilling and sampling to gather necessary technical data for designing structures or characterizing sediments.

(2) **Scientific Measurement.** Installation, removal, construction and maintenance of scientific measurement devices, such as staff gages, tide gages, water recording devices, water quality testing and improvement devices, and similar structures, whose purpose is to measure and record scientific data.

(3) **Surveys.** Removal and fill for surveys conducted for historical resources.

(4) **Maintenance of Water Intake and Outfall Structures.** Removal and fill activity necessary to maintain serviceability of existing water intake and outfall structures.

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

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

141-089-0675

Activity-Specific Conditions

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

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

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

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

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

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

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

General Authorization for Piling Placement and Removal within ESH

141-089-0680

Purpose

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

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

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

141-089-0685

Eligibility Requirements

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

- (1) **Purpose.** Individual piling and piling placed for over-water structure support (e.g., piling associated with docks, piers, boardwalks), mooring and turning dolphins, navigational aids without footings or other support structure as approved by the Department.
- (2) **Piling Material.** Round steel piling 24 inches in diameter or smaller, steel H-piling designated as HP24 (depth of section 24 inches or less) or smaller, or untreated wood, pre-cast concrete or plastic piling.
- (3) **Limited Placement.** Piling must be placed:
 - (a) So as not to form headwalls or other bank treatment structures;
 - (b) So as not to impede normal water flow into or within wetlands or deflect water in a manner that causes erosion;
 - (c) So as not to create new uplands;
 - (d) In non-wetland waters;
 - (e) In non-tidal waters; and
 - (f) By vibratory hammer or impact hammer, subject to the activity-specific conditions set forth in OAR 141-089-0695. Hydraulic jetting is not allowed.
- (4) **Removal.** Piling must be removed by means of vibratory method only according to the activity-specific conditions set forth in OAR 141-089-0695.

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

141-089-0690

Authorized Activities

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

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

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

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

141-089-0695

Activity-Specific Conditions

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

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

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

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

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

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

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

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

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

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

(5) **Removal Problems in Contaminated Sediment.** If wood piling breaks above the bed surface within an area of known contaminated sediment, piling must be cut at the bed surface or otherwise pushed to that depth. If piling breaks in contaminated sediment below the bed surface, no further attempt at removal may be made and the hole must be covered with a cap of clean substrate.

(6) **Prevent Perching.** Piling must be fitted with devices to effectively prevent perching by fish-eating bird species.

(7) **Barge or Top of Bank Position.** Piling must be placed or removed from a barge-mounted or above top-of-bank position. If barge-mounted, barge must not at any time be grounded in the bed or banks.

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

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

General Authorization for Temporary Impacts to Non-Tidal Wetlands

141-089-0700

Purpose

These rules set forth the conditions under which a person may, without an individual removal-fill permit from the Department, temporarily place or remove material in non-tidal wetlands.

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

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

141-089-0705

Eligibility Requirements

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

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

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

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

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

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

141-089-0710

Authorized Activities

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

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

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

141-089-0715

Activity-Specific Conditions

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

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

(2) **Timing of Temporary Impact Rectification.** Re-establishment of pre-construction contours and planting to re-vegetate temporarily disturbed areas must be completed within 24 months of the initial impacts. However, if the temporary impact requires only one construction season, site rectification must be completed within the same construction season as the temporary impact. Planting must include species of sufficient number, spacing, and diversity to replace affected aquatic functions.

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

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

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

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

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

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

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

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

General Authorization for Waterway Bank Stabilization

141-089-0720

Purpose

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

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

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

141-089-0725

Eligibility

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

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

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

141-089-0730

Authorized Activities

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

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

- (a) The slope must not be steeper than 3:1 (H/V) ratio;
- (b) Bank treatments must be replanted with native woody vegetation; and
- (c) If fabric is necessary, no petroleum-based fabric is allowed.

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

- (a) Trees must have a trunk diameter greater than or equal to 12 inches;
- (b) The basal ends must be oriented upstream;

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

(d) If anchoring is necessary, only rock ballast, untreated wood posts, stabilizing wood or key pieces of wood may be used as anchors.

(4) **Engineered Log Jams.** Log jams may be placed in order to stabilize the bank for woody vegetation establishment. The project must meet the following criteria:

(a) The length of key pieces of wood with trimmed rootwads must be one and one-half times the bankfull width or a minimum of 25 feet in length when bankfull width exceeds 15 feet. The length of key pieces of wood with trimmed rootwads must be the twice the bankfull width or a minimum of 30 feet in length when bankfull width exceeds 15 feet;

(b) Large wood must be intact, hard and undecayed to partially decayed hardwoods or conifers;

(c) The log jam must not occupy more than 20 percent of the bankfull width;

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

(e) If anchoring is necessary, only rock ballast, untreated posts, stabilizing wood or key pieces of wood may be used as anchors.

(5) **Log Toe Placement.** The project must meet the following criteria:

(a) Log toes must not extend more than one foot above the elevation of the water at base flow; and

(b) Logs must be large enough to withstand the hydraulic energy in the stream and be anchored securely to the bank by burial.

(6) **Porous Weir.** This activity includes the construction of a self-sustaining, low profile, structure including but not limited to cross vanes and artificial riffles. A porous weir delays but does not store water. It is used to redirect flow toward the center of the channel, provide energy dissipation and promote increased sedimentation along banks while allowing fish passage through a porous design. The project must meet the following criteria:

(a) Porous weirs must be placed so scour pools occur in areas where pools would naturally form in a pool and riffle complex;

(b) Porous weirs must not result in culvert inlet or outlet scour;

(c) Porous weirs must be sized appropriately for the system so as not to require annual maintenance;

(d) Porous weirs must be constructed of materials that mimic natural substrate found within the system;

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

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

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

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

141-089-0735

Activity-Specific Conditions

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

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

(a) Not restrict or redirect flows; and

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

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

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

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

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

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

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

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

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

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

General Authorization for Certain Transportation-Related Activities

141-089-0740

Purpose

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

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

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

141-089-0745

Eligibility Requirements

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

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

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

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

141-089-0750

Authorized Activities

A project must adhere to the following:

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

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

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

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

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

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

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

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

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

141-089-0755

Activity-Specific Conditions

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

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

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

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

141-089-0760

Purpose

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

(2) This general authorization is exclusive to:

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

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

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

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

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

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

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

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

(9) Other structures, uses and activities included in the notification for this General Authorization that are subject to another general authorization under OAR 141-089 or individual permit under OAR 141-085 will not be authorized or covered by this General Authorization. An application encompassing multiple activities must be processed as an individual removal-fill permit under OAR 141-085.

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

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

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

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

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

141-089-0765

Eligibility Requirements; Ineligible Projects

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

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

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

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

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

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

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

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

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

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

141-089-0770

Mandatory Requirements

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

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

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

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

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

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

141-089-0775

Conditions of Issuance of General Authorization

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

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

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

(3) The responsible party must conduct the activity during the time period recommended by the Oregon Department of Fish and Wildlife, unless after consultation with ODFW, a waiver is granted by Department for a longer or alternative time period. Work is

prohibited when fish eggs are present within the reach where activities are being conducted.

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

(5) When listed species are present, the responsible party must comply with the state and Federal Endangered Species Acts. If previously unknown listed species are encountered during the project, the responsible party must contact the Department as soon as possible.

(6) The responsible party must not disturb or destroy known archeological sites unless authorized under a permit issued by the State Historic Preservation Office. When previously unknown occurrences of archeological sites are discovered during construction, the responsible party must immediately stop work at the discovery site and contact the Department.

(7) The responsible party must ensure that the authorized work does not unreasonably interfere with or create a hazard to recreational navigation.

(8) The responsible party must ensure that woody vegetation removal is limited to the minimum amount needed to complete the project including construction access.

(9) The responsible party must ensure that areas disturbed in the course of completing the authorized work are stabilized with the appropriate erosion control best management practices and re-vegetated with the same mix of native herbs, shrubs and/or trees in approximately the same numeric proportion as were removed from the site, unless otherwise approved by the Department. Grass seed mixes of exotic and certified-free of noxious weeds that will hold the soil and not persist, are permitted.

(10) The responsible party must ensure that no petroleum products, chemicals or deleterious materials are allowed to enter the waters of this state.

(11) The responsible party must adhere to all applicable Department of Environmental Quality (DEQ) water quality requirements. If a 401 Water Quality Certification (WQC) is issued by DEQ in conjunction with a US Army Corps of Engineers 404 permit for the same project, the water quality conditions in the 401 WQC will govern water quality requirements pertaining to the authorized removal-fill activity. In this event, a copy of the 401 Water Quality Certification must be retained on site.

(12) For drainage ditch cleaning activities, the responsible party must comply with the following:

(a) Removal of existing woody vegetation, other than that growing within the maintained channel bed is prohibited;

(b) Only sand and silt sediments may be removed. This General Authorization is not for the removal of gravel;

(c) Erosion of disturbed areas (e.g., drainage ditch banks and work areas) must be minimized through re-vegetation with grass and/or planting of trees and shrubs;

(d) Removal must be conducted with land-based equipment from one side of the drainage ditch unless specifically authorized by the Department;

(e) At any time excavated material is placed on adjacent dikes it must be stabilized to eliminate erosion back into the drainage ditch; and

(f) If excavated material is to be thinly spread over adjacent wetland, wet pasture or farmed wetland, it is to be spread before the onset of winter rains, and controlled from eroding back into the drainage ditch.

(13) The responsible party must not remove and/or dispose of sediments in violation of the applicable state water quality standards.

(14) The responsible party must keep a copy of the approved notification available at the work site whenever the authorized activity is being conducted.

(15) Employees of the Department and all duly authorized representatives must be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this General Authorization.

(16) The Department makes no representation regarding the quality or adequacy of the project design, materials, construction, or maintenance, except to approve the project's design and materials as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196 and related administrative rules.

(17) The State of Oregon, and its officers, agents and employees must be held harmless from any claim, suit or action for property damage or personal injury or death arising out of the design, material, construction or maintenance of the authorized improvements.

(18) The Department may add other project-specific conditions to the approved notification as necessary to meet the requirements of this General Authorization. Such additional conditions may be needed to ensure that the project will cause only minimal individual and cumulative environmental effects and will not result in long-term harm to water resources of the state.

(19) The Department may, at any time, by notice to affected responsible parties, revoke or modify any approved notification of a project granted under this General Authorization if it determines the conditions of the General Authorization are insufficient to minimize individual or cumulative environmental effects.

(20) The responsible party is responsible for the activities of all contractors or other operators involved in project work covered by the notification.

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

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

Hist.: DSL 6-2002, f. 11-25-02 cert. ef. 1-15-03; DSL 1-2004, f. & cert. ef. 5-21-04; DSL

5-2005, f. 12-30-05, cert. ef.1-3-06; DSL 6-2007, f. 12-13-07, cert. ef. 1-1-08; DSL 2-2009, f. 2-13-09, cert. ef. 3-1-09

General Authorization for Waterway Habitat Restoration

141-089-0780

Purpose

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

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

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

141-089-0785

Eligibility Requirements

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

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

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

141-089-0790

Authorized Activities

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

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

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

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

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

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

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

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

(3) **Fish and Wildlife Passage.** This activity includes installation or replacement of fish passage structures including, but not limited to vertical slot fishways, nature-like fishways and lamprey ramps to aid fish and/or wildlife passage. The project must meet the following criteria:

(a) Oregon Department of Fish and Wildlife (ODFW) must be notified;

(b) Passage structures must be designed to consider the velocity, depth, pool-length and jump-height preferences of native species;

(c) Passage structures must be sized appropriately for the system yet be stable; and

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

(4) **Installation or Replacement of Fish Screening Structures.** The project must meet the following criteria:

(a) Oregon Department of Fish and Wildlife (ODFW) must be notified;

(b) Screens must meet ODFW fish screen criteria; and

(c) Cumulative removal-fill for this activity must not exceed 100 cubic yards in waters of this state.

(5) **Porous Weir.** This activity includes the construction of a self-sustaining, low profile, structure. A porous weir delays but does not store water. It is used to redirect flow toward the center of the channel, provide energy dissipation and promote increased sedimentation along banks while allowing fish passage through a porous design. This activity includes, but is not limited to cross vanes and artificial riffles. The project must meet the following criteria:

(a) Porous weirs must be placed so scour pools occur in areas where pools would naturally form in a pool and riffle complex;

(b) Porous weirs must not result in culvert inlet or outlet scour;

(c) Porous weirs must be sized appropriately for the system so as not to require annual maintenance;

(d) Porous weirs must be constructed of materials that mimic natural substrate found within the system;

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

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

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

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

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

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

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

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

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

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

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

141-089-0795

Activity-Specific Conditions

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

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

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

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

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

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

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

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

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

(4) **Self Sustaining.** Activities other than installation or replacement of passage structures or fish screens must be self-sustaining and not require annual maintenance or manipulation.

(5) **Post-Project Reporting.** Upon completion of the project, the project must be reported to the Oregon Watershed Enhancement Board at <http://www.oregon.gov/OWEB> by completing the Oregon Watershed Restoration Inventory (OWRI) form. The DSL General Authorization number must be included on the reporting form.

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

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

General Authorization for Wetland Ecosystem Restoration

141-089-0800

Purpose

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

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

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

141-089-0805

Eligibility Requirements

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

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

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

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

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

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

(7) **Hydrology.** Hydrologic manipulation must result in the hydrology of the restored site approximating the conditions that existed before the disturbance or alteration, to the

extent practicable. Hydrology conditions include timing of inflow and outflow, duration, frequency and hydroperiod.

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

(9) **Compensatory Mitigation.** Projects cannot be for the purpose of constructing compensatory wetland mitigation.

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

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

141-089-0810

Authorized Activities

The following activities are allowed under this general authorization:

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

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

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

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

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

(6) **Low Earthen Berms and Spillways.** Construction of low earthen berms and vegetated spillways that impede, contain or direct surface water may be used to extend the area or duration of shallow inundation. The design height of the berms must be no more than 18 inches from the existing ground level and have a maximum top width of four feet, variable slopes at a minimum of 6:1 or gentler on the water side, and maximum slopes of 6:1 on the land side, unless gentler slopes do not result in the conversion of wetland to upland. These structures may be installed to manipulate seasonal water depth, duration and degree of fluctuation that would be characteristic of natural or

historical hydrologic conditions and to manage invasive species. When berms are combined with shallow excavation described in Section (4) of this rule, the maximum depth of inundation must not exceed two feet.

(7) **Removal of Structures.** Removal of diversion structures, water control structures, small (three feet high or less) berms and tidegates, as long as the removal does not cause water to rise or be redirected in such a manner to result in damage to structures or substantial property.

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

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

141-089-0815

Activity-Specific Conditions

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

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

(2) **Post-Project Reporting.** Upon completion of the project, the project must be reported to the Oregon Watershed Enhancement Board at <http://www.oregon.gov/OWEB> by completing the Oregon Watershed Restoration Inventory (OWRI) form. The DSL General Authorization number is required to be included on the reporting form.

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

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

General Authorization for Recreational Placer Mining within ESH that is Not Designated SSW

141-089-0820

Purpose

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

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

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

141-089-0825

Eligibility Requirements

- (1) **Purpose.** The activity is for the specific purpose of recreational placer mining.
- (2) **Essential Salmonid Habitat.** The activity is conducted within ESH.
- (3) **Threshold.** The activity will remove, fill or move less than twenty-five (25) cubic yards of material annually from or within the bed of streams designated as ESH.
- (4) **Wet Perimeter.** The activity is confined to the wet perimeter.
- (5) **Disturbance of Woody Vegetation.** The activity does not disturb the streambank, including any rooted or embedded woody plants below the Ordinary High Water Line.
- (6) **Fish Passage.** The activity does not divert a waterway or obstruct fish passage.
- (7) **Minimization of Impounded Water.** The activity creates only the minimal area of impounded water necessary to operate the dredge and the impoundment structure is removed immediately upon completion of the mining activity.
- (8) **No Disturbance of Stream Structure.** No movement is allowed of boulders, logs, stumps or other woody material from within the wet perimeter other than movement by hand and non-motorized equipment.
- (9) **Dredge Intake Nozzle Limited.** If a motorized suction dredge is used, it must have an intake nozzle that has an inside diameter not exceeding four inches.
- (10) **Expiration of Recreational Placer Mining Authorizations.** Authorizations issued under the Recreational Placer Mining GA expire on December 31 of each year.

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

141-089-0830

Authorized Activities

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

141-089-0835

Activity-Specific Conditions

Proposed projects eligible for this General Authorization must adhere to the general conditions in OAR 141-089-0650, except that for recreational placer mining OAR 141-089-0650(10) is replaced by OAR 141-089-0835(8) below. The following activity-specific conditions also apply:

- (1) **Prevent Fish Stranding.** Upon completion of the activity at a given location, the responsible party must level all piles and fill all furrows, potholes and other depressions created by the activity.
- (2) **Wet Perimeter.** The activity is confined to the wet perimeter. The wet perimeter is 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 the activity occurs.
- (3) **Disturbance of Woody Vegetation.** The activity does not disturb the streambank, including any rooted or embedded woody plants below the Ordinary High Water Line.
- (4) **Fish Passage.** The activity does not divert a waterway or obstruct fish passage.
- (5) **Minimization of Impounded Water.** The activity may impound only the minimal area of water necessary to operate the dredge under the following conditions:
 - (a) The temporary dam does not extend across more than 75% of the wetted perimeter;
 - (b) The designs for the temporary dam are consistent with ODFW requirements set forth in ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040;
 - (c) All in-water work is performed during the recommended ODFW in-water work window; and

(d) The impoundment structure is removed immediately upon completion of the mining activity.

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

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

(8) **Refueling.** All fuel and oil must be stored in an impermeable container and must be located at least 25 feet from the wet perimeter of the stream. For dredge locations where a 25 foot buffer is not possible, additional precaution must be taken to ensure that petroleum products cannot spill or otherwise enter the stream.

(9) **Annual Report Required.** By December 31 of each year, the responsible party must submit to the Department an annual report, on a form provided by the Department, the estimated amount of material filled, removed or moved in each specific waterway mined during the preceding calendar year. When no jurisdictional activity was conducted, the report must be submitted reporting zero cubic yards for the year.

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

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