OAR 141-089 Rulemaking Public Comments and Agency Response

Comments & Agency Response

The public comment period was open from February 1, 2024, to March 4, 2024, at 5:00 p.m. The Department received four written comments and one oral comment from the public hearing.

Please note that comments are presented in the order they were received by the Department, with most recent comments listed first. Comments that were received via PDF are attached at the end of the document.

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Marc Van Camp, President, Coos-Curry County Farm Bureau – March 3 (via email)

Comment: Please see the attached PDF for Coos-Curry County Farm Bureau's detailed comments.

Agency Response:

The Department thanks the Coos-Curry County Farm Bureau for their comments. Responses are offered for each rule section commented upon:

141-089-0640 – 141-089-0650 Preconstruction Notice

The Department carefully reviewed each proposed activity with Oregon Department of Fish and Wildlife (ODFW) fish passage staff to determine which activities have the potential to impair fish passage and thus would be subject to the state's fish passage law. OAR 141-085-0640 lists those activities that ODFW fish passage staff identified as not needing fish passage review.

Regarding "ordinary high water" and "highest measured tide," these are removal-fill jurisdictional limits set by OAR 141-085. Any proposed changes to those jurisdictional limits would need to be addressed through Division 141-085 rulemaking.

Regarding resubmittal timelines, the Department has worked diligently to streamline the information requirements for submitting a GA notification. If a notification is determined to be incomplete, staff will provide specific directions for the needed correction(s). The Department believes that 120 days to address any notification deficiencies should, in most cases, be ample time. Where necessary, the proposed rule language does allow

flexibility for resubmittals: OAR 141-089-0640(3)(b) "…unless instructed by the Department to do otherwise."

141-089-0660 – 141-059-0075 Minimal Disturbance in Essential Salmonid Habitat (ESH)
Gravel removal for road building or other purposes has the potential for more than minimal environmental impact (statute requires GAs to have no more than minimal environmental impact) including destruction of fish spawning and rearing habitat, adverse changes to stream geomorphology and increased bank erosion, and stream sedimentation. That said, the Department notes there are several exemptions in the Removal-Fill Law pertaining to farm roads maintenance. Your local DSL aquatic resource coordinator can provide more information on these exemptions and their limitations.

141-089-0695 Over-Water Structures Fill and Removal
Treated wood is not permitted due to the potential for treatment materials (e.g., petroleum products, heavy metals, other bio-toxic materials) to leach into the waterway thus potentially creating more than minimal environmental impact.

Regarding vibratory removal of piling, the Department notes that this language is in the current Div. 89 rule and is not a proposed change. Cutting of piling is not allowed due to the potential for exposing pollutants (i.e., wood treatment compounds) at the piling cut face. That said, cutting is allowed where a piling breaks during an attempt using vibratory removal.

141-089-0720 Waterway Bank Stabilization – Purpose
For the purposes of this rule, "bioengineering" is the three proposed activities listed in OAR 141-089-0730. When used in the context of waterway bank stabilization, it entails the use of natural materials and methods that are deformable and enhance riparian habitat while dissipating erosive forces on a streambank. The Department notes that streambank stabilization methods that harden the bank (e.g., rip-rap) can have significant adverse effects to the waterway including deflection of stream energy to bank points across or downstream thus worsening erosion in other places. Hardening can also contribute to warming of streams and become an anchor point for nonnative species as well as preclude the opportunity for native vegetation establishment. For these reasons, the Department believes that projects requiring the use of rip-rap and other hardening proposals are better served by using the Individual Permit process where there is an opportunity for more thorough review by staff and the opportunity for adjacent landowners to offer comment.

141-089-0730 Waterway Bank Stabilization Using Bioengineering
The Department notes that the proposed rule language at OAR 141-089-0730 does allow the Department to approval alternative proposals where natural slopes within the waterway reach are steeper than 3:1.

Regarding the requirement for replanting of streambanks, this requirement is specific to only the bank sloping and terracing activity and is required to occur by March of the year following the sloping/terracing work. When streambank soils are disturbed by sloping/terracing, they become highly prone to further erosion in the short term until the soil is stabilized. A dense living root system provides this stabilization, and the Department seeks to encourage this sort of long-term protection that also provides riparian habitat. It should also be noted that the proposed rule language at OAR 141-

089-0730(1)(c) does give the Department the discretion to approve alternative timing for planting where warranted.

Regarding criteria for placement of large wood, the proposed language was made less prescriptive than the current rule language. The current rule language stipulates a minimum large wood diameter of 12 inches. The proposed language at 141-089-0730(2)(a) is made more performance-based, stating, “At a minimum, root wad diameter, trunk diameter and tree length, or their cumulative effect, must be of a size sufficient to withstand the rate of flow that caused the bank erosion.”

141-089-0775 – 141-089-0775 Removing Sediment behind Tidegates
As noted by the commentor, this GA is proposed for deletion, in part, due to its minimal use over the last 10 years. The second reason for deletion is that there are several removal-fill exemptions and alternative permitting options that are available to persons needing to perform this work. Please see the last page of this document for a description of those alternatives. With the creation of the Agricultural Drainage Channel Maintenance Program at the Oregon Department of Agriculture, opportunities to improve ease of use can be explored there.

141-089-0790 Waterway Habitat Improvement – Authorized Activities
The stated purpose of this GA is to promote activities with the effect of improving functions and values of aquatic habitat and facilitating species recovery in waterways. The proposed activities subsequently described in OAR 141-089-0790 are for that purpose. The Department believes that the proposed title of the GA is consistent with the purpose and described eligible activities.

141-089-0790(7)(d)
The Department concurs with this comment and notes that the referenced ODFW Guide is intended to consider and accommodate local conditions.

Craig Herman, Coos, Curry County Farm Bureau – February 21 (oral comment via public rule hearing)

Comment:

I’m on a riverbank in a tidal area and when I look at some of the rules with regard to from 141-089-0720, which is Waterway Bank Stabilization using Bioengineering. I get what’s bioengineering, it just feels like that’s something kind of out there in the clouds or something and then I look at the requirements of 141-089-0730, it just feels like these are so restrictive or dictated. The entire bank must be replanted with native vegetation within the time period; it seemed like it had to be done pretty quickly, like within a year. And I thought that’s a pretty restrictive timeframe given when you do a project it may take three years to be able to go back and do the replanting. And there was somewhere where I thought I read exactly the timeframe when it must be replanted. That was a concern.

The other thing is these root wad things, that really has nothing to do with riverbank stabilization. It’s kind of the thinking that this is gonna help fish and it doesn’t really do anything but stabilizing the bank. And then the placement of large root wads dictates how those will done; it dictates how you place the root wads and I’m not even sure it’s

even really necessary. And then for anchoring them, untreated wood posts; you can't use anything treated so it's a short timeframe when it could be rotted away.

And then rip-rap, you guys don't like rip-rap at all. And I think it's a really good tool particularly if you're looking at stabilizing the riverbank to prevent erosion. And then also if you are looking at putting in woody substances along a bank, what I'm seeing is if something floats up naturally and sticks on the bank there's something called a scouring effect that's caused by the current and the only way to kind of stabilize that is to use rip-rap to help stabilize any type of woody substance you're putting along a bank. And this is over in 141-089-0735, rip-rap, rock is not allowed. I think that's a bit restrictive.

Those are my concerns. It sounds good on paper but when you try to use this to actually stabilize a river bank or pull it back it seems like it's very, very directive. And each section of the river, if it's upland river or upstream, it doesn't have the tidal effect; if it's downstream, it does have a tidal effect—it has a different factors. By putting these things so restrictive, it makes it difficult to do the right type of project.

Agency Response:

The Department thanks Mr. Herman for his comments. The Department notes that streambank stabilization methods that harden the bank (e.g., rip-rap) can have significant adverse effects to the waterway including deflection of stream energy to bank points across or downstream thus worsening erosion in other places. Hardening can also contribute to warming of streams and become an anchor point for nonnative species as well as preclude the opportunity for native vegetation establishment. For these reasons, the Department believes that projects requiring the use of rip-rap and other hardening proposals are better served by using the Individual Permit process where there is an opportunity for more thorough review by staff and the opportunity for adjacent landowners to offer comment.

Regarding the requirement for replanting of streambanks, this requirement is specific to only the bank sloping and terracing activity and is required to occur by March of the year following the sloping/terracing work. When streambank soils are disturbed by sloping/terracing, they become highly prone to further erosion in the short term until the soil is stabilized. A dense living root system provides this stabilization, and the Department seeks to encourage this sort of long-term protection that also provides riparian habitat. It should also be noted that the proposed rule language at OAR 141-089-0730(1)(c) does give the Department the discretion to approve alternative timing for planting where warranted.

Doug Heiken, Oregon Wild – February 15 (via email)

Comment:

Please accept the following comments from Oregon Wild regarding Rulemaking for General Authorizations Within Waters of Oregon https://oregonstatelands.app.box.com/s/icm4558eiel6b7ke9ljspnfuf3246evh. Oregon Wild represents approximately 20,000 supporters who share our mission to protect and restore Oregon's wildlands, wildlife, and waters as an enduring legacy.

Oregon Wild supports aquatic and riparian restoration, and we support some flexibility in the rules for fill and removal to facilitate such restoration. We also urge DSL to give appropriate scrutiny to restoration projects because there are always trade-offs, such as the soil and vegetation disturbance caused by heavy equipment used to install aquatic restoration structures. Heavy equipment often needs to be moved from nearby roads to the project site and this can cause significant disturbance, erosion, compaction, weeds, riparian vegetation damage, etc.

We would also like to bring special attention to the potential impacts of restoration on native mussels that provide important ecosystem services and are closely associated with salmonid streams. Restoration might benefit mussels but it could also cause more harm than good if it is not done properly. This concern is probably most relevant to the proposed new activity proposed to be added: "Maintenance and Reconstructon of In-stream Habitat Structures," though it could be relevant to other rules sections as well.

If there are native mussels present in proposed restoration areas, please take steps to conserve them. Native mussels play an important role in ecosystem integrity and their conservation requires special care and attention. Land management activities, including logging, roads, and aquatic restoration projects, should strive to avoid and minimize adverse effects on native mussels and other aquatic invertebrates.

In the design and implementation of these aquatic restoration efforts, please review and apply the recommendations for mussel conservation found in these two documents. Blevins et al 2019. Mussel-Friendly Restoration: A Guide to the Essential Steps for Protecting Freshwater Mussels in Aquatic Restoration, Construction, and Land Management Projects and Activities, 32 pp The Xerces Society for Invertebrate Conservation, Portland, OR. https://xerces.org/sites/default/files/publications/19-013.pdf; and Blevins et al 2017. Conserving the Gems of Our Waters- BMPs for Protecting Native Western Mussels During Aquatic and Riparian Restoration, Construction, and Land Management Projects and Activities. 108 pp. The Xerces Society for Invertebrate Conservation, Portland, OR. https://xerces.org/sites/default/files/2018-05/18-001_01_XercesSoc_Protecting-Native-Western-Freshwater-Mussels-BMPs_web.pdf

Thank you for considering these comments.

Agency Response:

The Department thanks Oregon Wild for their comments. The Department specifically notes and acknowledges the need for appropriate levels of scrutiny when evaluating restoration projects under the Waterway Habitat GA and the Wetland Ecosystem GA. The Department additionally notes and thanks Oregon Wild for the information provided regarding protection of native mussels and will reach out to ODFW to explore opportunities to ensure their protection within the administration of the General Authorization rules.

Willie Levenson, Human Access Project – February 8 (via email)

Comment:

Human Access Project would like to submit comments regarding the GAO limit for removal of Derelict Piles. I am making the assumption that it is a goal of DSL to have as many Derelict Piles removed as possible or DSL would chosen to give these piles a

softer classification and naming. Removing Derelict Piles serves the public good. The GAO is a very good tool to address this.

The very nature of anything that is derelict is that it does not serve the public. Derelict Piles are often dangerous toe-stubbers, can ruin props in motor boats, and frequently degrade in-water habitat. Plus they are UGLY! Please consider amending the GAO to facilitate removal of Derelict Pilings by those who have the energy and resources to do so. In DSL's role to be stewards of of Oregon's treasured waters, the more of Derelict Piles that can be removed the better, the less red tape involved will result in more Derelict Piles being removed.

Please consider increasing the number of Derelict Piles that can be removed from any site under the GAO to 100 or 150.

Also, **in many cases vibrating piles out is not possible because of the age of the piles.** This is based on conversations with Advanced American Construction. Further, because Advanced American is basically the only outfit in the Portland Metro area left that has a vibration tool it creates economic hardship to get the work done. Less competition creates greater cost and activating vibration equipment is much more expensive than cutting 1' below the mud line. Allowing the GAO to cut off Derelict Piles 1' below the mud line and covering with sand as an alternative to vibration will facilitate more removal.

Please do not hesitate to reach out if you have any questions. It would be a great public service to facilitate the removal of Derelict Piles, simply by treating the removal in a more cooperative way.

Human Access Project is very interested in fundraising and contracting to have this work done. Please let me know if you have any suggestions in anything else I can do to help advocate for this change outside of comment.

Many thanks for all the great work you do, if its too hard to do I get it.

Agency Response:

The Department thanks Mr. Levenson for his comments. Regarding increasing the number of derelict piling allowed to be removed under the referenced GA, the Department notes that current rule only allows for removal of up to five piling. The Department believes that the proposed increase to up to 50 piling balances the benefits of old piling removal while still ensuring that potential adverse effects from water column disturbance (i.e., sound, vibration), sediment disturbance, and the creation of new pollutant sources at piling cut points is minimized. Once a track record is established with the 50 piling limitation, the Department can then more knowledgeably evaluate the benefits versus risks of further increases in the allowance.

Regarding allowing cutting of piling one foot below the mudline, the proposed rule does allow for piling to be cut below the mudline (3 feet below) in the event of accidental breakage during removal. The Department is concerned that a blanket allowance for cutting piling could lead to the creation of new pollution sources (e.g., creosote, other bio-toxic treatment chemicals exposed at the cut face) and may not be consistent with the statutory requirement that General Authorizations have for no more than minimal

environmental impact. The Department will continue to monitor this issue as new information becomes available.

Tommy Cianciolo, Trout Unlimited – February 7 (via PDF letter)

Comment: Please see the attached PDF for Trout Unlimited's detailed comments.

Agency Response:

The Department thanks Trout Unlimited for their comments and for their participation in the Rulemaking Advisory Committee.

Coos-Curry County Farm Bureau
87518 Davis Creek Lane, Bandon, Oregon 97411

March 3, 2024

Danielle Boudreaux, Rules Coordinator
Oregon Department of State Lands
775 Summer Street NE
Salem, OR 97301

RE: Oregon Waters and General Authorization Rulemaking

Dear Danielle Boudreaux:

The Coos-Curry County Farm Bureau's (CCFB) goal is to protect and preserve agriculture land. CCFB works to support the continuation of agricultural and related industries and prosperity for Oregon's farmers and ranchers. The CCFB opposes certain changes being put forward with the revisions to Oregon Waters and the General Authorization. The following are those areas of rulemaking that we are concerned about.

The following are the CCFB Comments regarding proposed General Authorization rules amendments:

141-089-0640 - 141-089-0650 Preconstruction Notification

(1)(a) These GA projects should not require a copy of fish passage plan authorization or no jurisdiction from ODFW. The GA's are not projects that restrict fish passage. CCFB recommends this section be removed as well as all other sections of this rulemaking.

(1)(a)(C) The use of the criteria of "above ordinary high-water line or highest measured tide line" is too subjective. Coastal Oregon can experience "king tides" along with heavy rainfalls could increase the highest measured tide line if measured. With the highest measured tide line, Bayshore Drive (Highway 101) in Coos Bay would be listed. CCFB recommends DSL only use "ordinary high water line" as the standard for this rulemaking.

(1)(a)(F) The use of the criteria of "above ordinary high-water line or highest measured tide line." CCFB recommends deletion of the "highest measured tide line".

(3)(b)(4) The timeframe for resubmittal of an incomplete or ineligible notification is too short considering the complexity of preparing a resubmittal to meet DSL requirement. The 120 calendar days are inadequate when experts may need to be engaged. CCFB recommends 180 days.

141-089-0660 – 141-089-0075 Minimal Disturbance in Essential Salmonid Habitat (ESH)

Since the majority of streams in Oregon have now been designated ESH, it is important to have a full array of fill and removal projects under this section: CCFB recommends consideration of gravel removal for agriculture roadways and heavy use areas as well streamside erosion control under this section.

141-089-0695 Over-Water Structures Fill and Removal

(7)(a) The limitation on piling material is questionable. It appears that treated wood is not allowed. Is there any scientific basis for disallowing treated wood material for pilings?

(6)(c) The requirement to use "vibratory method to remove piling" is too limiting.

141-089-0720 Waterway Bank Stabilization – Purpose

The requirement for bio-engineering as a condition for bank stabilization is too restrictive. It is not even clear exactly what bio-engineering entails. The use of rip-rap rock as a stabilization method should be encouraged. CCFB recommends this section adds that the use of rip-rap is a valuable tool for bank stabilization.

141-089-0730 Waterway Bank Stabilization Using Bio-engineering

(1)(a) The slope description uses the term 3:1 (H/V). There needs to be options for slopes depending on the situation.

(1)(c) The requirement to complete planting of vegetation by March of the following year is too limiting. Planting may take a long time due to weather and other unforeseen conditions. The timeline needs to allow for a three-year period to accomplish any planting.

(2) The criteria for size and placement of large wood such as trees root wads is too restrictive. This is to the point of excessive. Each part of a riverbank is unique and placement of wood for bank stabilization is questionable as the current can cause erosion of the riverbank due to placement of wood.

The following sections related to maintaining agriculture drainage ditches has been removed:

141-089-0765 Removing Sediment Behind Tidegates - Eligibility Requirements Ineligible Projects

141-089-0770 Removing Sediment Behind Tidegates – Mandatory Requirements

141-089-0775 Removing Sediment Behind Tidegates - Conditions of Issuance of General Authorization

The agency advised us that these sections were deleted since they were only used 3 times in the past 10 years. It is clear from review of the eligibility requirements that the mandatory requirements made it difficult for agriculture producers in farmed and prior converted wetlands to utilize the process. This sediment that fills the drainage ditches comes from upland erosion and run off and needs to be removed before it gets to the river. Drainage ditches are a sediment catch basin and ultimately limits sediment from entering the river. When a landowner in our area used this GA, there were complaints from upstate that too many ditches had sediment removed. DSL does not realize there is an economic reason for getting the job done once in a 10 – 15 year period. We recommend staff work with real landowners to understand their needs. With the removal of

these sections, will maintenance of agriculture drainage ditches in coastal Oregon require a General Permit? CCFB recommends the Department redesign this section to meet the needs of agriculture drainage ditches so it could be used easily by the landowners/drainage districts in coastal Oregon in order to protect and maintain their drainage as it has been done historically without mitigation and huge cost to the landowner.

141-089-790 Waterway Habitat Improvement – Authorized Activities

We don't see why the description for this section is described as only as improvement. CCFB recommends this section heading should be: Waterway Infrastructure and Habitat Maintenance and Improvement.

141-089-790(7)(d) This section prescribes the placement of logs consistent with a guide (Guide To Large Wood and Boulder Placement). Log placement needs to be determined by the diversity of the river or stream and natural conditions such as tidal influence, storm surge, flooding, etc.

Thank you for the opportunity to provide comments on this rulemaking. CCFB looks forward to seeing the finalized rules and hopes DSL will consider comments brought forth by landowners who are impacted by these rules.

Respectfully,

Marc Van Camp

Marc Van Camp, President

February 7, 2024

DSL Rules Coordinator
Oregon Department of State Lands
775 Summer Street NE, STE 100
Salem, OR 97301

Via email to: DSL.rules@dsl.oregon.gov

Re: Trout Unlimited Support for General Authorization Rulemaking

Dear Members of the State Land Board, Director Walker, and DSL Staff,

Trout Unlimited ("TU") is a non-profit organization dedicated to the conservation of cold-water fish (such as trout, salmon, and steelhead) and their habitats. Our organization has more than 300,000 members and supporters nationwide, including about 3,500 members in Oregon. TU's mission is to bring together diverse interests to care for and recover rivers and streams so our children can experience the joy of wild and native trout and salmon.

TU held a seat on the rulemaking advisory committee ("RAC") for the General Authorization Rulemaking and participated in all RAC discussions. DSL staff were receptive to RAC member input and good communicators throughout the process, and we greatly appreciate the time and effort those staff committed to this effort.

Overall, Trout Unlimited supports the changes made to update and streamline DSL's General Authorization process. In particular, TU strongly supports the addition of the new activity "Habitat Logs, Beaver Dam Analogs, and Post-Assisted Log Structures" under OAR 141-089-0780 (Waterway Habitat Improvement) and "Beaver Pond Leveler and Exclusion Devices" under OAR 141-089-0660 (Minimal Disturbance in Essential Salmonid Habitat).

Please accept the following detailed comments on the General Authorization rule package:

1. **TU supports the addition of the new activity "Beaver Pond Leveler and Exclusion Devices" under rule 141-089-0660 – Minimal Disturbance in Essential Salmonid Habitat.**

Beavers play an important role in creating and maintaining habitat for salmonids in waters across Oregon[1]. However, flooding from beaver dam building activities can threaten human infrastructure (e.g., culverts, roads) which can lead to the removal of beaver and/or their dams. The addition of this new GA activity will streamline permitting for the installation of beaver pond levelers, and other devices designed to control water levels in ponds created by beaver dams, allowing for the maintenance of ecosystem services created by beaver and their dams (e.g., increased groundwater level and instream and riparian habitat).

2. **TU supports the addition of the new activities "Habitat Logs, Beaver Dam Analogs, and Post-Assisted Log Structures" and "Maintenance and Reconstruction of In-stream Habitat Structures" under OAR 141-089-0780 – Waterway Habitat Improvement.**

Low-Tech Process-Based Restoration (LTPBR) is an emerging and rapidly expanding technique for restoring the fundamental processes that maintain health of streams and riparian areas (e.g., beaver dam building, woody debris accumulation)[2]. LTPBR relies on the addition of low-cost, temporary woody debris structures (e.g., Beaver Dam Analogs, Post-Assisted Log Structures) in stream systems to initiate vertical and lateral hydraulic connectivity. Before this rule-making process, DSL did not have a GA that specifically included LTPBR structures which caused confusion for applicants and DSL staff. The addition of this new activity is greatly welcomed by TU and will lead to improved outcomes for restoration projects that utilize LTPBR to recover self-sustaining fluvial processes.

Thank you for this opportunity to provide input on this rulemaking, and please let me know if you have any questions.

Sincerely,

Tommy Cianciolo
Water Quality Project Coordinator
Trout Unlimited
tommy.cianciolo@tu.org

[1] Niemi E., Fouty S. and Trask. (2020). Economic Benefits of Beaver-Created and Maintained Habitat and Resulting Ecosystem Services. Created for the Oregon Department of Fish and Wildlife Commission. Available here: https://www.oregonlegislature.gov/marsh/Documents/EconBenefitsBeaver.pdf

[2] Wheaton J.M., Bennett S.N., Bouwes, N., Maestas J.D. and Shahverdian S.M. (Editors). 2019. Low-Tech Process-Based Restoration of Riverscapes: Design Manual. Version 1.0. Utah State University Restoration Consortium. Logan, UT. Available at: http://lowtechpbr.restoration.usu.edu/manual

Removal of Sediment Behind Tidegates[1] GA in Current Div. 89 Rule	**Alternative "Coverage" if GA is Repealed**
Allows removal and disposal of sediment behind tidegates under certain conditions. For naturally(?) and artificially created drainage ditches[2]. Ditches must be within "hydraulically closed"[3] perimeters. Sand and silt only. Can't remove gravel. Amount of removal is limited to "minimum amount necessary" to remove "recently deposited" material. Allows thin layer disposal of sediment in adjacent farmed wetlands[4]. Notice-based approval.	**Exemption: Maintenance of Water Control Structures** (OAR 141-085-0530 (4)): • Includes tidegates. • Includes maintenance of drainage and irrigation ditches behind tidegates w/o the "hydraulically closed" requirement. • Does not include natural waterways that have been manipulated (e.g., "ditched"). **Exemption: Agricultural Drainage Ditch Maintenance** (141-085-0535 (7)): • Augments the water control structure exemption above by allowing disposal of sediment in "converted" wetlands.[5] **General Permit: Maintenance Drainage** (OAR 141-093-0220, *et seq*.): • Up to 100 cubic yards removal per year. • Removal may be from ditch or a stream (including designated ESH). • Allows disposal in converted wetlands. **ODA: Agricultural Drainage Channel Maintenance** (OAR 603-095-4000 *et seq*.): • Created by HB 2437 (2019); administered by ODA, not DSL. • For the maintenance of channels (ditches or streams) used for agricultural drainage. • Channels must be routinely maintained to facilitate draining related to agriculture and could provide drainage in the last five years. • Channels must be dry at the time of work (legislation requires development of separate process for work "in the wet"). • Not allowed in designated ESH streams. • Allows up to 3,000 cubic yards removal per linear mile over the 5-year approval period. • Notice-based approval. • Program phased in across Oregon over 4 years.