

HB2238 Removal-Fill Fees RAC

Comment Tracker

#	Source	Topic Area	Comment	Response
1	RAC 2	Division 90 (Wetlands)	Consider where to draw the line between Tiers 1 and 2 if the difference in staff time for review is really not that big for Tier 1 and 2 projects.	The tier breaks chosen are based on wetland area because wetland area is already used as a key criterion for removal-fill permitting.
2	RAC 2	Division 90 (Wetlands)	Consider a modest charge for offsite determinations.	DSL has decided not to incorporate this suggestion in the proposed rule because we believe the value for public education and resource protection outweigh the costs. In addition, there would be little influence on overall cost recovery.
3	RAC 2	Division 90 (Wetlands)	Consider distinguishing the tiers based on lineal footage of delineated wetland.	DSL assumes lineal footage of delineated wetland is equivalent to wetland perimeter, and that the thought here is that longer perimeters lead to the need for more sample plots and therefore more work for DSL to review. It is complexity and not wetland boundary length that dictates the number of sample plots needed.
4	RAC 2	Division 90 (Wetlands)	Add an additional layer of criteria that considers the proposed project's objective. For example, restoration projects have an ecological objective and seek to avoid wetland impacts or even improve wetlands and waterways, so could be considered for a lower fee.	DSL assumes the term "restoration projects" is equivalent to the term "voluntary habitat restoration." A delineation report is not required if this type of project is exempt from permitting (OAR 141-085-0534) or covered through a general authorization notice (OAR 141-089). DSL may, and often does, waive permit application information requirements for voluntary habitat restoration projects (OAR 141-085-0550(8)).
5	RAC 2	Division 90 (Wetlands)	Exempt ODOT, or other entities funding a Liaison	DSL will work with ODOT regarding this suggestion.
6	RAC 3	Division 90 (Wetlands)	Keep fees low for wetland determinations and delineations report reviews because these provide important information about wetlands	DSL agrees that wetland determination and delineation fees should be kept low and that effort is reflected in the cost recovery models.
7	RAC 3	GA Fees	Keep fees low because GA notifications provide helpful information for the public that care about wetlands and waters (public good)	DSL has proposed lower fees for GAs based on average staff review times.

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8	RAC 3	GA Fees	Provide an exemption on fees for agencies such as ODOT that fund liaisons.	DSL will work with ODOT regarding this suggestion before the public comment period.
9	RAC 3	GA Rules	Refer back to Division 85 when describing No State Permits	Change has been made.
10	RAC 4	Division 85 (Removal-fill permits)	Rewrite OAR 141-085-0545(1)(b) to make it more clear: "...appropriate fees <i>per tier</i> within 120 calendar days of tier identification	DSL considered this change but is not proposing a change.
11	RAC 4	Division 85 (Removal-fill permits)	Clarify what is meant by "nonprofit" habitat improvement project in OAR 141-085-0545(2)(a)(B)	DSL proposes the following: "(B) Project proponent is, or represents, a group or body organized for the purpose of habitat improvement and the project is exclusively for habitat improvement that is non-income-producing."
12	RAC 4	Division 93 (Removal-fill permits)	In OAR 141-093-0120, place the word "OAR" in front of "141-085-0545"	DSL has made this change.
13	RAC 2	Cost Recovery	Wetlands are a public good. Appropriate to have less than full cost recovery for wetland delineations and determinations.	Noted.
14	RAC 2	Cost Recovery	Support for 50 or 75% cost recovery, with general fund for the other portion.	Noted. If partial cost recovery through fees is decided, the Department will work with the State Land Board to determine our budget and use of the Common School Fund. The legislature is ultimately responsible for allocating general funds and authorizing agency budgets.
15	RAC 2	Cost Recovery	Consider phasing in of fees, with lower fees at first and then increases of fees to get to full cost recovery over a 3- or 5-year period.	DSL will consider this suggestion based on the final cost recovery model selected.
16	RAC 2	Cost Recovery	Consider a higher fee for applicants seeking expedited service.	DSL considered this suggestion but feels such a service could result in less equitable treatment for Oregonians not able to pay the higher fee.
17	RAC 2	Cost Recovery	Suggest staff time for offsite determinations be excluded from cost recovery and instead be covered by general funds.	DSL has proposed to continue offering offsite determinations as a free service. If partial cost recovery through fees is proposed, the Department will work with the State Land Board to determine our budget and use of the Common School Fund. The legislature is ultimately responsible for

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				allocating general funds and authorizing agency budgets.
18	RAC 4	Cost Recovery	Consider a lower cost recovery model to reduce the burden on the housing industry	Noted. Under the proposed rule, single home construction projects will generally fall into a lower tier and be charged as an Applicant Type 1. Housing developments with larger impacts to wetlands and other waters take significantly more time to process.
19	RAC 4	Cost Recovery	Consider a 50 or 60 percent cost recovery allocation which is more in line with what other state agencies do	Noted
20	RAC 4	Cost Recovery	When the RAC makes it cost recovery recommendation, include a statement or the story behind why they made that recommendation	Noted
21	RAC 2	FIS	Because local government is subject to the same fees and permits as all permittees, governments could be economically impacted. If counties and cities pay higher fees, this impacts the public generally because the public funds these governments.	Noted
22	RAC 2	FIS	Conservation groups that do conservation projects on private lands are impacted, and significantly so because they have limited funding	Noted
23	RAC 3	FIS	State agencies likely to be affected by the rule include: ODOT or other state agencies who fund a state liaison position, and agencies that fund conservation projects such as Oregon Department of Fish and Wildlife (ODFW) and Oregon Watershed Enhancement Board (OWEB).	Noted
24	RAC 3	FIS	Members of the public likely to be economically affected include agricultural landowners, as well as irrigation districts (who are quasi-public).	Noted. DSL does not receive many agricultural permit applications due to removal-fill law exemptions. There is a general permit for drainage that DSL generally receives 2 or 3 applications per year for and fees for that general permit would change. This rulemaking does not change fees for notices to Oregon Department of Agriculture for agricultural drainage channel maintenance.

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25	RAC 3	Racial Impact Statement	Consider potential impact on Tribes. Staff can reach out to the state archaeologist and a tribal member to learn about potential impacts on tribes.	The internal DSL Tribal Collaborative was consulted regarding the impact that these rules would have on the Tribes. The collaborative determined that there would be no impact on racial equity with relation to the Tribes. The Tribes are sent letters throughout the rulemaking process to invite them to participate and provide comment, including notice of when the rules are filed.
26	RAC 3	Racial Impact Statement	The cost of accessing data may be a barrier for lower income people	DSL website is continuously being updated to more easily provide the data needed by the public.
27	RAC 2	Info Request	Consider providing more detailed information on cost recovery calculations and information on full cost recovery for each piece of the program separately.	DSL provided more detailed information at RAC meeting #3 (see RAC #3 webpage ref doc) https://www.oregon.gov/dsl/Pages/rulemaking.aspx
28	RAC 2	Info Request	Show current fees in fee charts for comparison	DSL provided current fees in fee charts at RAC meeting #3 (see RAC #3 webpage ref doc) https://www.oregon.gov/dsl/Pages/rulemaking.aspx
29	RAC 3	Info Request	Show percentage increase in fees at all tiers and cost recovery models (for all permit types)	DSL provided more detailed information at RAC meeting #3 and #4. Reference website presentations for RAC 3 and 4: https://www.oregon.gov/dsl/Pages/rulemaking.aspx
30	RAC 3	Info Request	Show the calculations that went into developing the proposed fees at the different cost recovery models	DSL provided more detailed information at RAC meeting #3 and #4. Reference website presentations for RAC 3 and 4. https://www.oregon.gov/dsl/Pages/rulemaking.aspx