

## DRAFT RULE LANGUAGE

### 141-085-0545

#### Fees; Applicant Type and Project Tiers

(1) Fees.

(a) All applications for authorizations must include the base application fee at the time of application submission and pay any additional fees before the Department issues an authorization.

(b) The Department may administratively close an application if the applicant does not pay the appropriate fees within 120 calendar days of tier identification.

(c) Excepted from (1)(a) and (b) are fees for an emergency authorization, which must be submitted to the Department within 45 calendar days of receiving the authorization.

(d) Fees for General Authorizations and Notifications for Voluntary Habitat Restoration are found in OAR 141-089-0635.

(2) Fee by Applicant Type. Fees for authorizations are based in part on the following:

(a) Applicant Type 1.

(A) Project proponent is, or represents, a single household owner and the project is exclusively for a purpose that is non-income-producing and nonprofit; or

(B) Project proponent is, or represents, a group or body organized for the purpose of habitat improvement and the project is exclusively for a purpose that is non-income-producing and nonprofit habitat improvement.

(b) Applicant Type 2. Project proponent does not meet the criteria for Applicant Type 1.

(3) The following base application fees apply to individual permits, general permits, and emergency authorizations:

(a) Effective July 1, 2025 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(b) Effective July 1, 2026 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(b) Effective July 1, 2027 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(d) Effective July 1, 2028 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(e) Effective July 1, 2029 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(4) Permit Tiers. During review of an application or permit modification, the Department will identify the applicable permit tier for the project. Refer to [Project Tier PDF] for the project criteria for each tier.

(5) Permit Tier Fees. The following are the project tier fees by year per applicant type as assigned under Section (2):

(a) Effective July 1, 2025:

(A) Tier 1 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(B) Tier 2 - \$X, Applicant Type 1 and \$X, Applicant Type 2

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(C) Tier 3 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(D) Tier 4 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(E) Tier 5 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(b) Effective July 1, 2026:

(A) Tier 1 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(B) Tier 2 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(C) Tier 3 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(D) Tier 4 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(E) Tier 5 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(c) Effective July 1, 2027:

(A) Tier 1 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(B) Tier 2 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(C) Tier 3 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(D) Tier 4 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(E) Tier 5 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(d) Effective July 1, 2028:

(A) Tier 1 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(B) Tier 2 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(C) Tier 3 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(D) Tier 4 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(E) Tier 5 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(e) Effective July 1, 2029:

(A) Tier 1 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(B) Tier 2 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(C) Tier 3 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(D) Tier 4 - \$X, Applicant Type 1 and \$X, Applicant Type 2

(E) Tier 5 - \$X, Applicant Type 1 and \$X, Applicant Type 2

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(6) For applications in Tiers 4 and 5 that exceed the costs outlined in Section (5), an additional hourly rate will be charged. The Department will notify the applicant of the initial cost estimate and seek approval prior to initiating work. The hourly rate will be based on the actual costs at the time of service.

(7) Permit Renewal Fees. For individual permits, and general permits, that are renewed or valid for up to 5 years, an annual fee is assessed for each year that the permit is in effect. The annual fee is due 45 days prior to the anniversary date of issuance of the permit. The Department may assess the fee for multiyear permits or renewal as a one-time fee for up to five years.

(a) Effective July 1, 2025 - \$X per year

(b) Effective July 1, 2026 - \$X per year

(c) Effective July 1, 2027 - \$X per year

(d) Effective July 1, 2028 - \$X per year

(e) Effective July 1, 2029 - \$X per year

(8) Fees for Request for Modification of Permit Conditions or Transfer of a Permit.

(a) The following fees apply to a request from the authorization holder to either modify permit conditions or transfer an individual permit or general permit:

(A) Effective July 1, 2025 - \$X

(B) Effective July 1, 2026 - \$X

(C) Effective July 1, 2027 - \$X

(D) Effective July 1, 2028 - \$X

(E) Effective July 1, 2029 - \$X

(b) Transfer of an applicant or modification of permit conditions will result in the Department re-evaluating the applicant type and permit tier under Sections (2) and (4). Any additional fee under Section (5) resulting from a change in the permit tier will be due before the permit modification or transfer is issued.

(9) In-Water Work Window Variance Fees. The following fees apply for requests to deviate from the permitted In-water Work Window. The fee is due prior to issuance of the extension.

(a) Effective July 1, 2025 - \$X per year

(b) Effective July 1, 2026 - \$X per year

(c) Effective July 1, 2027 - \$X per year

(d) Effective July 1, 2028 - \$X per year

(e) Effective July 1, 2029 - \$X per year

**Statutory/Other Authority:** ORS 196.825 & 196.600-196.692

**Statutes/Other Implemented:** ORS 196.600-196.692 & 196.800-196.990

## **DRAFT RULE LANGUAGE**

### **History:**

DSL 3-2012, f. 9-28-12, cert. ef. 9-29-12

DSL 1-2011, f. & cert. ef. 3-1-11

DSL 8-2009, f. 12-15-09, cert. ef. 1-1-10

DSL 1-2009, f. 2-13-09, cert. ef. 3-1-09

**OREGON DEPARTMENT OF STATE LANDS – HB2238 PROPOSED FEE STRUCTURE**

**Removal-Fill Fee Proposal – Individual Permits, General Permits, and Emergency Authorizations**

*The top fee row for each tier indicates the cost to an Applicant Type 1; the bottom fee row indicates the cost to an Applicant Type 2.*

Permit Tier	Project Criteria	50%	70%	85%	Full
<b>Base Application Fee</b>	All applicants are required to pay the base application fee at the time of submission. The remainder of project costs will be due before the Department issues a permit.  When the Department finds a project does not require an authorization (no state permit required) only the base application fee is required.	\$600	\$650	\$700	\$750
		\$1,800	\$1,950	\$2,100	\$2,250
<b>Tier 1</b>	<b>To qualify for Tier 1, a project must:</b>  Be for the primary purpose of voluntary habitat improvement of the ecological condition of a water of this state but an authorization is required, AND the project will not result in unacceptable individual or cumulative environmental effects or long-term harm to water resources of this state.	\$200	\$450	\$700	\$950
		\$600	\$1,350	\$2,100	\$2,850
<b>Tier 2</b>	<b>To qualify for Tier 2, a project must fall into one of the following categories:</b>  A) General Permit for Minor Removal-Fill Impacts to Certain Non-Tidal Wetlands  B) General, Individual, or Emergency Permit that: <ul style="list-style-type: none"> <li>Does not require compensatory mitigation, OR</li> <li>Permanent wetland impacts are 0.2 acres or less and compensatory mitigation is provided by using mitigation banks, in-lieu fee, or payment in-lieu; AND</li> <li>Does not occur in an estuary (tidal waters), essential salmonid habitat, or a state scenic waterway; and does not have temporary or permanent impacts to an aquatic resource of special concern.</li> </ul>	\$400	\$650	\$900	\$1,150
		\$1,200	\$1,950	\$2,700	\$3,450
<b>Tier 3</b>	<b>To qualify for Tier 3, a project must be limited to one or more of the following parameters:</b>	\$3,000	\$3,750	\$4,500	\$5,250

**OREGON DEPARTMENT OF STATE LANDS – HB2238 PROPOSED FEE STRUCTURE**

Permit Tier	Project Criteria	50%	70%	85%	Full
	General, Individual, or Emergency Permit that: <ul style="list-style-type: none"> <li>Requires compensatory mitigation but does not meet Tier 2 criterion, OR</li> <li>Has permanent impacts to more than 0.21 and less than 2 acres of wetland but no permanent impacts to any other type of aquatic resource, excluding jurisdictional ditches, OR</li> <li>Needs more than one functional assessment.</li> </ul>	\$9,000	\$11,250	\$13,500	\$15,750
Tier 4	<b>To qualify for Tier 4, a project must fall into one of the following categories:</b>  A) A Department of Environmental Quality Remedial Action Waiver	\$4,000	\$4,750	\$5,500	\$6,250
	B) General, Individual, or Emergency Permit that meets the criteria listed in Tier 3 <b>AND one or more</b> of the following parameters: <ul style="list-style-type: none"> <li>Has permanent impacts to non-wetland waters.</li> <li>Impacts 2 or more wetland acres.</li> <li>Impacts, either temporarily or permanently, a compensatory mitigation site.</li> <li>Project site involves an enforcement.</li> <li>Project involves multiple phases (past or future) that need to be considered in the permit review.</li> <li>The project occurs in the Pacific Ocean (Territorial Sea)</li> <li>The project requires a minor exception to the Lower Willamette River Management Plan that is not pre-approved by the Director.</li> <li>Application (required information) is 150 or more pages.</li> <li>Substantive comments are received requesting denial or design modification and results in a design modification.</li> <li>Requires more than one public review.</li> <li>Application takes more than 12 months to issue due to resolution of project elements or requests for extension.</li> <li>Requires formal coordination with other local or state entities, Tribal governments, the federal government, and/or other interested stakeholders, such as multiple communications, meeting(s), or formal consultation.</li> </ul>	\$12,000	\$14,250	\$16,500	\$18,750

**OREGON DEPARTMENT OF STATE LANDS – HB2238 PROPOSED FEE STRUCTURE**

Permit Tier	Project Criteria	50%	70%	85%	Full
	<ul style="list-style-type: none"> <li>Requires more than one site visit or coordination meeting with the applicant, either pre- or post-application submittal.</li> <li>The permit will include an Adaptive Management Plan.</li> </ul>				
Tier 5	<p><b>Projects in Tier 5 require an extended amount of time for permit processing. To qualify for Tier 5, a project must meet the criteria listed in Tier 4 <u>AND one or more</u> of the following parameters:</b></p> <p>General, Individual, or Emergency Permit that:</p> <ul style="list-style-type: none"> <li>Requires more than one public meeting.</li> <li>Requires a major exception to the Lower Willamette River Management Plan.</li> <li>Requires a Joint Agency Review Team meeting under the Territorial Sea Plan.</li> <li>Is a new linear facility (as defined in <a href="#">OAR 141-085-0510(53)</a>).</li> </ul> <p><i>Within this tier, DSL maintains the ability to charge for staff time beyond the project fee listed. If the project occurs in phases, DSL has the ability to enter into a contract with the responsible party.</i></p>	\$6,000	\$6,750	\$7,500	\$8,250
		\$18,000	\$20,250	\$22,500	\$24,750
Other Fees	<b>Permit Renewal (per year)</b>	\$400	\$450	\$500	\$550
	<b>In-Water Work Variance Request</b>	\$100	\$100	\$100	\$100
	<b>Modification of Permit Conditions or Transfer of a Permit</b>	\$400	\$450	\$500	\$550

## **CURRENT RULE LANGUAGE**

### **141-085-0545**

#### **Fees; Amounts and Disposition**

- (1) Disposition of Fees. All applications that require a fee, except for an emergency authorization, must include the fee at the time of application.
- (2) Project Applications that Require a Fee. Except as provided in Section (3) of this rule, the following types of projects require a fee for a complete application:
  - (a) Individual Permit and General Permit applications that require a fee, must be accompanied by the applicable base fee and volume fee in accordance with the current fee schedule;
  - (b) General Authorization notifications which require a fee under OAR 141-089-0635, must be accompanied by the flat fee when the proposed removal-fill activity is 50 cubic yards or more; and
  - (c) Emergency Authorization holders, except for erosion or flood repair, must submit the required fee to the Department within 45 calendar days of receiving the authorization.
- (3) Project Applications that Do Not Require a Fee. No application fee or renewal fee is required when submitting an application or notification for the following:
  - (a) An agency determination that the project does not require a permit from the Department;
  - (b) Erosion-flood repair or stream bank stabilization projects, regardless of the authorization type;
  - (c) Voluntary habitat restoration projects directed at habitat improvement, regardless of the authorization type;
  - (d) A general authorization when the project involves less than 50 cubic yards of removal-fill activity; and
  - (e) A general permit that does not require a fee when specified in OAR 141-093.
- (4) Calculating Application Fees. For each application that involves both removal and fill activity, the application fee is calculated separately for each activity using the base and volume fees. The required fee to be submitted with the application is the greater of the two calculated fees.
- (5) Base Fees. Base fees are based on the following applicant classifications:
  - (a) Private operator, or a person contracting to perform services for a private operator;
  - (b) Public body; or
  - (c) Commercial operator.
- (6) Volume Fees. In addition to the base fee established under Section (5) of this rule, each applicant may be required to also pay, as part of the application, an additional fee based on the volume of material according to the following schedule:
  - (a) Less than 500 cubic yards;
  - (b) 500 to less than 5,000 cubic yards;
  - (c) 5,000 to less than or equal to 50,000 cubic yards; or



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(d) Over 50,000 cubic yards.

(7) Annual fees. For individual permits that are renewed or valid for more than one year, an annual fee is assessed for each year that the permit is in effect. The annual fee is equal to the base fee at the time of renewal or annual billing and is due by the anniversary date of issuance of the permit.

(8) Multiyear Permits. For issuance of multiyear permits valid over a period of more than one year and up to five years, the Department may assess a one-time fee at the rate in effect at the time of the application or renewal. The one-time fee must include:

(a) The application fee; and

(b) Any applicable annual fees for the duration of the term of the permit.

(9) Adjusting Fee Amounts. Fees are adjusted annually, on January 1 of each year. By December 1 of each year the Department will consult the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor to determine the appropriate annual fee adjustment to become effective on January 1 of the following year. The Department will then revise the fees in accordance with the CPI and post the fee schedule on the Department's website (<http://oregonstatelands.us/>).

**Statutory/Other Authority:** ORS 196.825 & 196.600-196.692

**Statutes/Other Implemented:** ORS 196.600-196.692 & 196.800-196.990

**History:**

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