



# Rulemaking Advisory Committee

Proposed Fees for  
General Authorizations

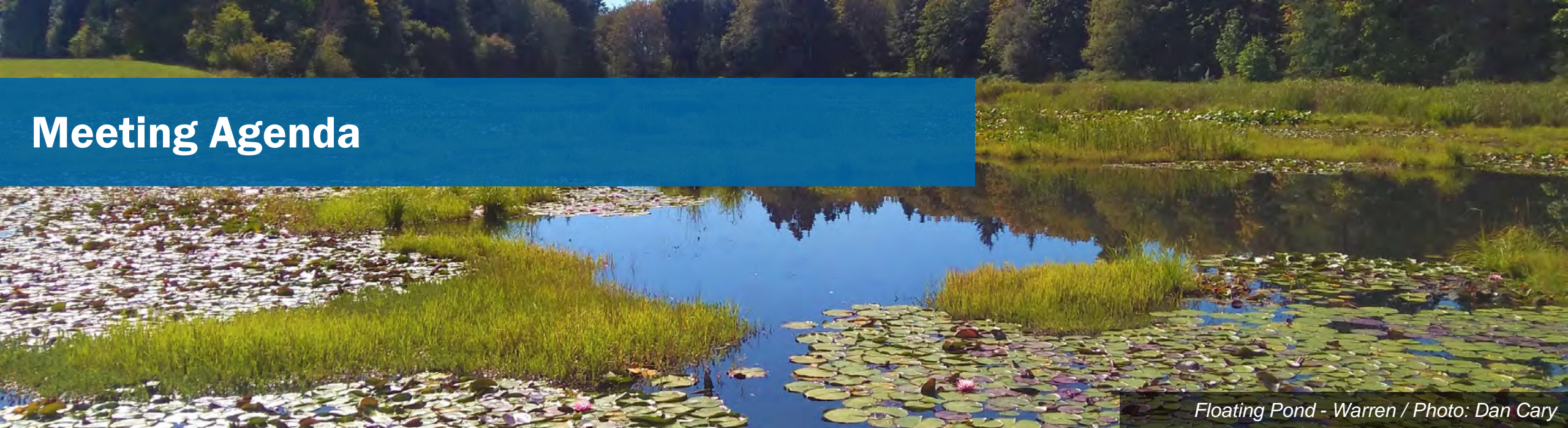
August 28, 2024



Floating Pond – Warren / Photo: Dan Cary



# Meeting Agenda



Floating Pond - Warren / Photo: Dan Cary

- |          |   |
|----------|---|
| 9:00 AM  | Introductions; Agenda Review                                |
| 9:10 AM  | Revisit Wetland Determination and Delineation Proposed Fees |
| 9:35 AM  | Division 89 Background; Fees; Data Methodology              |
| 9:55 AM  | Discussion—Division 89 Proposed Fees; Draft Rule            |
| 10:25 AM | Discussion—Fiscal Impact Statement                          |
| 10:35 AM | Discussion—Racial Equity Statement                          |
| 10:45 AM | Interested Party Comments                                   |
| 10:55 AM | Next Steps  |
| 11:00 AM | <i>Meeting ends</i>   |

# Zoom Protocols



Each person who wishes to speak will be asked to raise their hand.

- To raise your hand, click the reactions near the bottom of your screen and click “raise hand” or by pressing star 9 if you are on the phone.
- Will seek a balance of speaking time during discussions
- *For technical support, please message us in the chat.*
- Please keep your mic muted unless it is your turn to speak. Use of video is encouraged.
- We ask that all participants be respectful of each other and DSL representatives.
- Interested Parties will be provided time at the end of the meeting to make comments to the RAC.

# Meeting Purpose



**OAR 141-090-0032, Fees for On-Site Wetland Determinations and Wetland Delineation Report Reviews** - Review and recommend initial fees

**OAR 141-089-0635, Fees for General Authorizations** – Review, discuss, and recommend the following:

- Proposed Cost Recovery Fees for General Authorizations
- Annual Fee Increase Percentage
- Proposed Rule Language
- Fiscal Impact Statement Worksheet
- Racial Equity Statement Worksheet

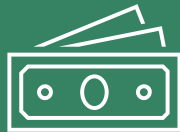


# Div 90 Follow-Up





# Proposed Fees



Application Type	60%	73%	85%	100%
Tier 1	\$600	\$850	\$1,100	\$1,350
Tier 2	\$1,200	\$1,450	\$1,700	\$1,950
Tier 3	\$3,500	\$4,000	\$4,500	\$5,000
On-site	\$450	\$500	\$550	\$600
Reissuance Fee	\$600	\$850	\$1,100	\$1,350

Current Fees:

Wetland Determinations:

Off- and On-Site: No cost

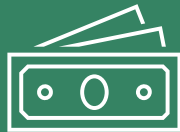
Wetland Delineation Report Reviews:

Initial Fee: \$559

Resubmittal Fee: \$100

Reissuance Fee: No cost

# Estimated Revenues



Cost Recovery Percentage	Estimated Revenue
60%	\$370,300
73%	\$463,200
85%	\$556,100
100%	\$635,500

- *The estimated revenue is based on the proposed fees for Division 90 and contributes to the overall program cost recovery.*
- *Estimated wetland revenue accounts for 20% of the total program cost recovery.*



# Div 89 Background





# General Authorizations & Exempt Notifications



OAR 141-089-0625(3)

The Department may grant 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.



# Types of General Authorizations



## Minimal Disturbance within Essential Salmonid Habitat (ESH) Activities

- Investigative Drilling and Sampling
- Scientific Measurement
- Surveys For Historical Resources
- Maintenance and Reconstruction of In-Water Structures
- Beaver Pond Levelers and Exclusion Devices



# Types of General Authorizations



## Over-Water Structures Activities

- Residential docks and associated piling or anchors
- Piling or anchor replacement for existing nonresidential docks
- Seasonal fill and removal for public recreation structures
- Fill and removal for navigational aids
- Derelict and abandoned piling removal



# Types of General Authorizations



## Temporary Impacts to Wetlands and Waterways Activities

- Temporary impact of 0.50 acres or less of nontidal wetlands
- Temporary impact of 0.20 acres or less of tidal wetlands
- Placement and removal of structures necessary to isolate a work area
- Temporary placement of spud piles

# Types of General Authorizations



## Waterway Bank Stabilization Using Bioengineering Activities

- Bank Terracing, Sloping, and Reshaping
- Placement of Large Wood
- Log Toe Placement



# Types of General Authorizations



## Waterway Habitat Improvement Activities

- Barrier Removal
- Grade Control
- Fish and Wildlife Passage
- Installation, Maintenance, or Replacement of Fish Screening Structures
- Porous Weirs
- Remove, Modify, Repair, or Replace Existing Culverts and Tide Gates for Fish Passage
- Habitat Logs, Beaver Dam Analogs, and Post-Assisted Log Structures
- Engineered Log Jams
- Maintenance and Reconstruction of In-Stream Habitat Structures

# Types of General Authorizations



## Wetland Ecosystem Improvement Activities

- Vegetation Management
- Floodplain Contouring
- Microtopography Establishment
- Macrotopography Establishment
- Removal of Materials
- Low Earthen Berms and Spillways
- Removal of Structures
- Placement of Temporary Exclusion Fencing in Wetlands



# Types of General Authorizations



## Non-motorized In-stream Placer Mining in ESH Activities

- Non-motorized in-stream placer mining

# **Exemptions for Certain Voluntary Habitat Restoration Activities**



## OAR 141-085-0534 Habitat Exemptions

- Notices to the Department
- Review of a notification requires similar staff review times as a GA, and
- Notices are often included as part of a GA packet.



# Types of Exempt Activities



Three Exempt Voluntary Restoration Activities Require a Notice:

(a) Ditch and Drain Tile Removal

(b) Placement of Large Wood, Boulders and Spawning Gravels

(c) Activities Customarily Associated with Habitat Restoration in ESH

# General Authorization & Notification Review



1. General Authorization and Exempt Notification and fee (if required) is received by support services (SS) and the notification is logged into the Land Administration System database. SS then notifies the aquatic resource coordinator (ARC) that they have a Notification to review.
2. ARCs have 30 days to review the notification and determine if the GA or Exempt Notification is complete.

# General Authorization & Notification Review



3. ARCs interact with the applicant for needed information.
4. ARCs draft determination of eligibility or ineligibility and forward to support staff for issuance.
5. An approved GA Notification is valid for three years.



## Current Fee



A \$250 flat fee is required if there will be 50 cubic yards or more of removal and fill for the following GAs.

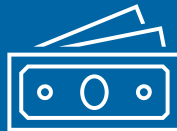
- Over-Water Structures Fill or Removal GA
- Temporary Impacts to Wetlands and Waterways GA

*\*The Department researched states included in the National Association of Trust Lands (NASTL) and could not find comparable programs.*

# Number of General Authorizations and Exempt Notifications

Year	Placer Mining	Habitat Improvement	Ecosystem Improvement	Temporary Impacts	Minimal Disturbance	Bank Stabilization	Over-Water Structures	Combined GAs	Exempt Notifications
2019	3	13	8	3	19	7	47	3	12
2020	15	11	4	1	18	9	64	3	15
2021	3	20	3	1	6	9	56	5	13
2022	9	15	5	3	13	3	55	9	10
2023	8	9	10	6	20	4	32	9	13
<b>Avg</b>	<b>8</b>	<b>14</b>	<b>6</b>	<b>3</b>	<b>15</b>	<b>6</b>	<b>51</b>	<b>6</b>	<b>13</b>

# Current Revenues



Year	Over-Water Structures	Temporary Impacts	Total
2019	\$10,500	\$1,000	\$11,500
2020	\$15,500	\$250	\$15,750
2021	\$13,750	\$500	\$14,250
2022	\$13,500	\$500	\$14,000
2023	\$8,000	\$750	\$8,750
<b>Avg</b>	<b>\$12,250</b>	<b>\$600</b>	<b>\$ 12,850</b>

*These are estimated revenues based on number of notifications received. Revenues and expenditures for General Authorizations are combined with those for Removal-Fill permits.*



# Determination of Fee





# General Authorizations

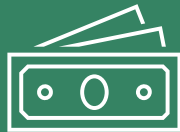


HB2238 (2023), Section 4, (2)(d) states that the Department shall establish a fee based on the cost of processing the general authorization.

Using staff time tracking data, it was established that the average processing time of a GA notification is 2.8 hours.

The average time per notification was multiplied by the cost of each staff position associated with processing a notification.

# Proposed Fees

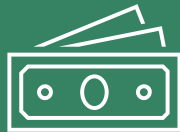


Fee Type	60%	73%	85%	100%
Submission	\$300	\$350	\$400	\$450
Request to Revise/Transfer	\$50	\$75	\$85	\$100

Current Fee: \$250 (Over-Water Structures Fill or Removal GA; Temporary Impacts to Wetlands and Waterways GA)



# Estimated Revenues



Cost Recovery Percentage	Estimated Revenue
60%	\$34,800
73%	\$53,825
85%	\$65,150
100%	\$76,475

- *The estimated revenue is based on the proposed fees for Division 89 and contributes to the overall program cost recovery.*
- *These revenues represent 2.3% of the program cost recovery at each level.*



# Proposed Rule Language







Draft rule language includes placeholders for fees. The purpose of this is two-fold:

- The Department is asking the RAC for a recommendation for a cost recovery proposal to use as the initial fees.
- The Department is proposing an annual fee increase of 5% in order to keep up with economic growth. The average annual CPI rate for the past 5 years is 4.26%.



# Discussion of Fees and Rule Language





# Fiscal Impact and Racial Equity Statements







The Notice of Proposed Rulemaking requires agencies to provide a Fiscal Impact Statement and a Racial Equity Statement.

- The **Fiscal Impact Statement** is intended to identify the fiscal impact of the proposed rules on affected parties, including government agencies and small businesses.
- The **Racial Equity Statement** is intended to identify the affect of the proposed rules to racial equity within the state of Oregon.

Today's discussion will provide input on the drafting of these two statements.

*Discussion about a Housing Impact Statement will take place at a future meeting.*



## Interested Party Comments

Please raise your hand  
to speak.

Please keep comments  
limited to 3 minutes  
and on topic with  
today's discussion.





# Interested Party Comments



Use the "Raise Hand" feature to provide community input. Time is limited and we may not be able to hear from all of you today.

- To raise your hand, click the reactions near the bottom of your screen and click "raise hand" or by pressing star 9 if you are on the phone.
- You will be called in the order in which hands are raised.
- Please keep your mic muted unless it is your turn to speak.

## When it's your turn to speak:

- When your turn is coming up, the moderator will call on you to begin speaking.
- Please say your name, where you're from, and any organization you're representing.
- Please keep your remarks to **three minutes** and be respectful of each other and agency representatives. We will help track your time.



# What's Next?

- Following this meeting any revisions to the draft rule language and proposed fee will be sent to the RAC members.
- In the next week, a meeting summary will be sent to RAC members and today's meeting recording will be posted.
- Prior to the next meeting (Individual, General, and Emergency Permits) an agenda will be sent to the RAC.
- All meeting materials will be posted to DSL's Rulemaking website: [www.oregon.gov/dsl/Pages/rulemaking.aspx](http://www.oregon.gov/dsl/Pages/rulemaking.aspx)



# Thank You!

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**[Oregon.gov/DSL](http://Oregon.gov/DSL)**