



Rulemaking Advisory Committee

Proposed Fees for
Removal-Fill Permits

September 11, 2024



Floating Pond – Warren / Photo: Dan Cary

Meeting Purpose



**OAR 141-085, Individual Removal-Fill Permits;
OAR 141-093, General Removal-Fill Permits –
Review and discuss the following:**

- Fee Tiers for Removal-Fill Permits
- Proposed Rule Language:
 - 141-085-0545: Fees; Applicant Type and Project Tiers
 - 141-093-0105: Application Requirements and Completeness Review for Authorizing Projects under a General Permit
 - 141-093-0120: Expiration [General Permits]



Meeting Agenda

Floating Pond - Warren / Photo: Dan Cary

- | | |
|----------|---|
| 9:00 AM | Introductions; Agenda Review |
| 9:15 AM | Removal-Fill Background, Fees; Data Methodology |
| 9:35 AM | Discussion—Proposed Fee Tier and Fees |
| 10:45 AM | Break |
| 10:55 AM | Discussion—Proposed Rule Language |
| 11:45 AM | Interested Party Comments |
| 11:55 AM | Next Steps |
| 12:00 PM | <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.

Removal-Fill Permits



Removal-Fill Permit Types



Applications fall into four categories of removal-fill permits:

- Individual Permits
- General Permits
- Emergency Authorizations
- Letters for no state permit (NSP) required

Individual Removal Fill Permit



Individual Permits are the standard path for the removal or fill of material in waters of the state.

When there are no special permitting mechanisms (i.e., general authorization, general permit) an application will be processed as an Individual Permit Application.

General Removal-Fill Permit



General permits include a select set of activities:

- Transportation-Related Structures (OAR 141-093-0140)
- Minor Removal-Fill Impacts (OAR 141-093-0155)
- Jackson County Vernal Pools (OAR 141-093-0180)
- Maintenance Drainage (141-093-0220)
- Maintenance Dredging (OAR 141-093-250)
- Certain Ocean Renewable Energy Facilities (OAR 141-093-0285)

Emergency Authorization



Emergency Authorization Permits are for situations where there is a direct threat to substantial property and there is not time to obtain another type of authorization.

The project is to be limited to the minimal amount necessary.

No State Permit – General



“No State Permits” are official letters to an applicant that their project does not require a permit from the Department. There can be various reasons these are sought (e.g., county requirement for documentation).

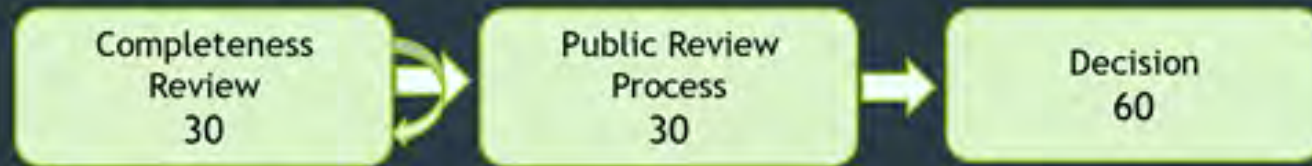
This description does not include the exempt notifications discussed under the GA process.

Application Review Process

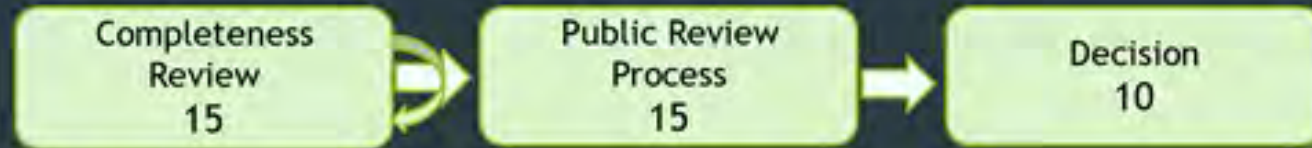


Application Review Timelines

Individual Removal/Fill Permit



General Permit



Application Review - Individual



1. An application is received by Support Services (SS) and logged into the Land Administration System database. SS then notifies the aquatic resource coordinator (ARC) that they have an application to review.
2. ARCs have 30 days to review the application and determine if it is complete. ARCs may interact with the applicant for simple needed information.

Application Review - Individual



3. ARCs notify the applicant if the application is complete. If not complete a detailed description of items needed is provided.
4. Complete applications are sent for 30-day public review.
5. After public review comments are forwarded to the applicant. The comments that need resolution are identified by the ARC.

Application Review - Individual



6. The Department has 60 days from the end of the public review period for ARC to interact with the applicant and other interested parties, assure there are no missing elements, draft the permit, including conditions; and SS prepares for the manager to sign the decision.

Application Review - General



1. An application is received by Support Services and logged into the Land Administration System database. SS then notifies the aquatic resource coordinator (ARC) that they have an application to review.
2. ARCs have 15 days to review the application and determine if it is complete. ARCs may interact with the applicant for simple needed information.

Application Review - General



3. ARCs notify the applicant if the application is complete. If not complete a detailed description of items needed is provided.
4. Complete applications are sent for 15-day public review.
5. After public review comments are forwarded to the applicant. The comments that need resolution are identified by the ARC.

Application Review - General



6. The DSL has 40 days from receiving a complete application (approximately 10 days after the public review period) for the ARC to interact with the applicant, other interested parties, assure there are no missing elements, draft the permit, including conditions; and SS to prepare for ARC to issue the decision

(Only renewable for 5 years, except Maintenance Dredging GP.)

Application Review - Emergency



1. ARC receives a call, or SS receives an emergency application.
2. ARC interacts with applicant to identify information gaps and inform applicant of what to expect in the authorization.
3. Authorization is either issued verbally and electronic form of the authorization, including all the conditions, is sent within a few days; or, if there is time the permit is issued electronically. Conditions may include a requirement to revise the project and apply for a removal-fill permit after the emergency has subsided.

Current Fees



- ORS 196.815, Application for permit; rules; fees; disposition of fees
 - Establishes base fees
 - Stipulates fees will be adjusted annually based on CPI changes
- Base fees were last increased in 2007

Current Fees



Base Application Fees

- Removal
 - Public bodies/Commercial Operators: \$399
 - Private Operators: \$136
- Fill
 - Public bodies/Commercial Operators: \$990
 - Private Operators: \$399

Current Fees



Removal/Fill Volume Fees

- | | |
|----------------------|-------|
| • Less than 500 cy | None |
| • 500 to 4,999 cy | \$198 |
| • 5,000 to 50,000 cy | \$399 |
| • Over 50,000 cy | \$600 |

Max Removal Fee

\$999/\$736

Max Fill Fee

\$1,590/\$999

Current Revenues



- 2019 \$416,991
- 2020 \$332,418
- 2021 \$393,825
- 2022 \$419,983
- 2023 \$522,677
- Average \$417,179

Determination of Tiers and Fees



Legislative Directive



HB2238 (2023), Section 4, (2)(b)

The director shall establish project tiers for fees established under subsection (1)(a) [removal-fill permits] of this section. In establishing project tiers, the director shall consider the administrative costs to the department, and the impacts on the waters of this state, associated with different project types.

Determination of Tiers



Created by extensive discussions with experienced aquatic resource coordinators regarding elements that created complexity and added review time.

Also discussed with Planning and Policy regarding facilitating voluntary habitat improvement projects.

Determination of Applicant Types



The goal of the applicant types is similar to the current rule and makes allowance for:

- Single household owners for projects that are not for profit.
- Groups organized for habitat improvement for projects that are not for profit.

Applications Per Tier Applicant Type 1



Year	NSP	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Total
2019	11	0	42	0	8	1	62
2020	6	2	33	0	2	0	43
2021	7	1	23	2	2	0	35
2022	6	0	12	0	1	1	20
2023	4	1	11	0	2	1	19
Average	7	1	24	0	3	1	36

Applications Per Tier Applicant Type 2



Year	NSP	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Total
2019	33	15	206	21	20	12	307
2020	42	14	165	24	17	6	268
2021	36	11	147	35	24	8	261
2022	46	11	162	22	10	17	268
2023	38	20	169	15	11	9	262
Average	39	14	170	23	16	10	273

Renewals and Modifications



1-Year Renewal	
Year	#
2019	172
2020	296
2021	309
2022	384
2023	407
Average	314

5-Year Renewal	
Year	#
2019	32
2020	41
2021	8
2022	9
2023	2
Average	18

Multi-Year Renewal	
Year	#
2019	91
2020	127
2021	122
2022	132
2023	122
Average	119

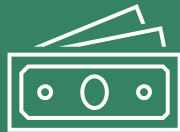
Modifications	
5 Yr Avg	18

Determination of Fees



- Staff Time Tracking data was used to identify the average amount of time per application and the factors that contribute to longer processing times.
- Staff Salary data was used to determine the hourly staff cost.
- The amount of time for an application completeness review (using data for no state permit required) was multiplied by the hourly staff cost to set a base application fee.
- Fees for each tier reflect impacts on waters of this state and the complexity and staff time needed to process an application. Higher tiers bear more of the cost both within and between cost recovery models.
- Fees were multiplied by the average number of applications to determine the estimated revenue for the removal-fill program.
- Applicant Type 2 fees are three times the amount of Applicant Type 1, which reflects the proportion of current base application fees.

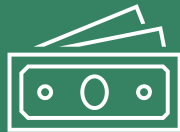
Proposed Fees



Tier	60%	73%	85%	Full
Application Fee	\$600	\$650	\$700	\$750
	\$1,800	\$1,950	\$2,100	\$2,250
Tier 1	\$200	\$450	\$700	\$950
	\$600	\$1,350	\$2,100	\$2,850
Tier 2	\$400	\$650	\$900	\$1,150
	\$1,200	\$1,950	\$2,700	\$3,450
Tier 3	\$3,000	\$3,750	\$4,500	\$5,250
	\$9,000	\$11,250	\$13,500	\$15,750
Tier 4	\$4,000	\$4,750	\$5,500	\$6,250
	\$12,000	\$14,250	\$16,500	\$18,750
Tier 5	\$6,000	\$6,750	\$7,500	\$8,250
	\$18,000	\$20,250	\$22,500	\$24,750

- Line one (darker blue) for each row is the fee for Applicant Type 1 and line two (lighter blue) is for Applicant Type 2.
- Applicants will pay both an application fee and the applicable tier fee.

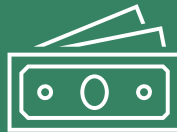
Estimated Revenues



	60%	73%	85%	100%
Applicant Type 1	\$49,400	\$60,450	\$71,500	\$82,550
Applicant Type 2	\$1,282,800	\$1,572,000	\$1,861,200	\$2,150,400
Renewals and Modifications	\$206,000	\$231,750	\$257,500	\$309,000
Total	\$1,538,200	\$1,864,200	\$2,190,200	\$2,541,950

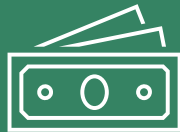
- *The estimated revenue is based on the proposed fees for Divisions 85 and 93 contributing to the overall program cost recovery.*
- *These revenues represent 78%-79% of the total program cost recovery at each level.*

Cost Increase Applicant Type 1



Applicant Type 1	2024 Maximum Fee:				\$999
	60%	73%	85%	100%	# of Apps
Tier 1 Fee Increase from Current Maximum:	-20%	10%	40%	70%	1
Tier 2 Fee Increase from Current Maximum:	0%	30%	60%	90%	24
Tier 3 Fee Increase from Current Maximum:	260%	340%	421%	501%	0
Tier 4 Fee Increase from Current Maximum:	360%	441%	521%	601%	3
Tier 5 Fee Increase from Current Maximum:	561%	641%	721%	801%	1

Cost Increase Applicant Type



Applicant Type 2	2024 Maximum Fee				\$1,590
	60%	73%	85%	100%	# of Apps
Tier 1 Fee Increase from Current Maximum:	51%	155%	164%	221%	14
Tier 2 Fee Increase from Current Maximum:	89%	192%	202%	258%	170
Tier 3 Fee Increase from Current Maximum:	579%	872%	881%	1032%	23
Tier 4 Fee Increase from Current Maximum:	768%	1060%	1070%	1221%	16
Tier 5 Fee Increase from Current Maximum:	1145%	1438%	1447%	1598%	10

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 Fee Tiers, Fees, and Rule Language



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 tiers 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 an agenda, fiscal impact statement, racial equity statement, and housing statement will be sent to the RAC.
- Calendar appointments for the potential November and December meetings will be sent.
- All meeting materials will be posted to DSL's Rulemaking website: www.oregon.gov/dsl/Pages/rulemaking.aspx



Thank You!

Facilitator

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