

FISCAL AND ECONOMIC IMPACT:

The proposed changes to these rules are expected to have an overall positive fiscal and economic impact to the regulated community (i.e., those seeking to conduct certain minimally impactful removal and fill activities in waters of this state). Some activities previously requiring the more time consuming and costly General Permit or Individual Permit process (e.g., certain maintenance of in-water structures, temporary impact to waterways, beaver exclusion and pond leveler devices, floating recreational structures, activities in tidally-influenced waterways) may now qualify for the more streamlined General Authorization process. In other cases, the amount of removal or fill that can be performed under a General Authorization has been raised (e.g., increase of up to 50 derelict/abandon piling removal, increase to 0.5 acres temporary wetland impact, increase to 10 cubic yards of removal-fill for certain activities in essential salmonid habitat), thus diverting these projects from the General Permit or Individual Permit process to the General Authorization process.

There are, however, several areas when the regulated public may experience a negative fiscal and economic impact:

- The proposed rules would disallow the use of any General Authorization within the Portland Harbor superfund site (Willamette River miles 1.9 to 11.8). Removal-fill activities in this area would have to use the more time intensive/costly General Permit or Individual Permit process. Currently the Department issues approximately four General Authorizations per year within this area, thus the impact is relatively limited.
- The proposed rules will require residential dock projects to use specified metal grating material for construction if they want to benefit from the expedited General Authorization process. Such materials will generally be more expensive than traditional wooden dock material. Additionally, to benefit from the expedited General Authorization process, residential docks would be limited to 144 sq. ft. Proposed docks bigger than this would be required to go through the more time-intensive and costly Individual Permit process.
- The proposed rules would require, in most cases, that General Authorization applications include evidence of fish passage compliance from the Oregon Department of Fish and Wildlife (ODFW). While fish passage compliance has always been a requirement under ODFW rules, the requirement to demonstrate compliance when applying for a General Authorization from DSL may expose some persons/projects for the first time to fish passage requirements. ODFW does not charge a fee for fish passage compliance review, thus the cost would be limited to the time necessary to submit the required materials and await review approval from ODFW.

The proposed deletion of two General Authorization types (Removal of Sediment Behind Tidegates and Transportation-Related Activities) is expected to have no net fiscal/economic impact to the regulated public seeking authorization for these activities since other low or no cost regulatory compliance options are already available to the public.

For the Department, the proposed changes to rules are expected to have an overall positive fiscal and economic impact as it is likely that more applications will be diverted from the staff time intensive

General Permit and Individual Permit processes to the more streamlined General Authorization process.

#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).*

This is an existing rule for which certain changes are proposed, as broadly outlined above. Any state agency, unit of local government, or member of the public that seeks to conduct removal or fill in waters of this state may be affected by these rules. For state agencies, the most common users of General Authorizations are the Oregon Department of Transportation and Oregon Department of Fish and Wildlife. Occasional state agency users include the Oregon Water Resources Department, the Oregon Department of Environmental Quality, the state university system, and Oregon's ports. For units of local government, the most common users of General Authorizations are public works departments, municipal utility departments, road departments, and parks departments. For members of the public, the most common users are landowners with waters of this state within or bordering their properties.

*(2) Effect on Small Businesses:*

*(a) Estimate the number and type of small businesses subject to the rule(s);*

The types of small businesses potentially subject to this rule (and its proposed changes) fall into two categories:

- Professional services contracted by applicants such as: architectural and engineering services, construction contractors, marine services contractors, and environmental consulting and compliance services. Because professional services are typically third parties hired by applicants, it is not possible for the Department to estimate the number of such businesses that might be involved.
- Any small business itself seeking to conduct removal or fill activity in waters of this state The Department does not collect data on how many applicants themselves are "small business".

*(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);*

The proposed changes to reporting, recordkeeping, and administrative activities for small businesses includes the following:

- Most applications for General Authorizations will now require evidence of completed fish passage review by ODFW. While fish passage compliance has always been a requirement for many forms of in-water work, the proposed change to rule will require that fish passage review be completed before applying for a General Authorization, thus introducing some additional recordkeeping for applicants that are small businesses.
- The rectification monitoring report requirement for the Temporary Impact General Authorization has been bolstered to include reporting on any deviations in the approved work and a report cover sheet. This new cost is expected to be limited to a few hundred dollars.

*(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

The proposed changes to the Division 89 rules are expected to have little or no change to the cost of equipment supplies or labor for small businesses. One possible exception would be for proposed residential docks seeking to qualify for a General Authorization. In this case, the proposed rule would require that the dock be constructed from metal grated material with certain specifications. This may have some positive effect on any small business manufacturers of such materials.

Some small business types may experience a reduced use/cost of professional services. There are certain activities (e.g., certain maintenance of in-water structures; beaver pond leveler devices; temporary impact and bank stabilization activities in tidal waterways; certain waterway habitat improvement structures) that currently require an Individual or General Permit with an associated high level of professional services costs for regulatory assistance/compliance. These activities could now qualify for a General Authorization that may have lesser or no associated professional services need.

It is not expected that small business will be significantly affected by the disallowance of General Authorizations within the Portland Harbor superfund area since the small number of current users (approximately four per year) are either regulatory agencies or large corporations.

The effect to small business (e.g., small farmers, other beneficiaries of drainage behind tidegates) from the proposed rule deletion of the "Removal of Sediment Behind Tidegates" GA is expected to be minimal since this GA has only been used four times in the previous 10 years and other low or no cost options for permitting such activity already exist.

No effect to small business is expected from the proposed rule deletion of the "Transportation-Related Activities" General Authorization since historic users of that authorization type are limited to local and state government agencies.