



## **OREGON DEPARTMENT OF FISH AND WILDLIFE HOUSE BILL 3315 TRACKING AND INVOICING RECOMPENSABLE ASSISTANCE**

### **Executive Summary**

House Bill 3315 requires the Oregon Department of Fish and Wildlife (Department) to track recompensable work performed for other state agencies. The purpose is to recover costs associated with the Department consulting and providing technical review on fee based programs as required by law. The Department developed an on-line task tracking system to track and summarize recompensable hours worked. During the 2015-17 biennium, the Department recorded 1,171 recompensable hours (reporting period beginning on July 1, 2016). During the 2017-19 biennium, the Department recorded 2,474 recompensable hours (providing a biennial total). These hours are summarized from work performed for eight state agencies during that period; Department of Environmental Quality, Department of Forestry, Department of Geology and Mineral Industries, Department of State Lands, Parks and Recreation Department, Water Resources Department, Department of Land Conservation and Development, and the Department of Transportation. Based on the position class and rate for the staff performing the work those hours total \$222,857 in recompensable costs for July 1, 2016 to December 31, 2019. A reasonable expectation for recompensation per biennium is approximately \$130,000. As required by HB 3315, the Department will begin annual invoicing for actual cost recover beginning July 1, 2020.

---

### **House Bill 3315**

House Bill 3315 (2015) requires the Department of Fish and Wildlife (Department) to track and prepare statements reporting the number of hours spent by Department personnel performing recompensable assistance for other executive branch agencies. The bill directs the Department to begin tracking on or after July 1, 2015, and to track at an hourly rate based on the position class of the personnel performing the service. HB 3315 also directs the Department to send statements to the state agency receiving services. However, the Department is only authorized to begin billing state agencies and recoup actual monies after July 1, 2019.

"Recompensable assistance" is defined in HB 3315 as assistance rendered by the Department as part of advancing fee-funded programs administered by another state agency.

### **On-line Task Tracking Information System**

The Department developed an on-line task tracking system (OTTIS) to record staff time and assist with reporting hours worked by project. The system tracks in 15-minute increments and covers the wide range of activities staff performs; wildlife management, customer service, research and administrative functions. While collecting this valuable activity information the system also records when time is spent assisting state agencies and tracks for recompensable hours by permit number.

### **State Agency Invoicing**

The Department sent the first invoice statements to state agencies in April of 2017. The statements contained a summary of hours for the period of July 1, 2016 to December 31, 2016. The statements detailed total hours and monetary cost for those services Department staff provided that qualify as recompensable actions. The statement was itemized by permit, position class of the Department staff member, and the corresponding hourly rate.

The Department sent another round of statements on October 1, 2019. Again, these statements included the total hours and a monetary assessment based on those hours.

## Legislative Reporting

As required by HB 3315 the Department must report to the Legislative Assembly in 2017 and 2019. House bill 3315 requires the Department's report include a summary of hours and cost, and to provide;

- (1) types of permits and state agencies that utilize the department's services for which invoicing will be allowed,
- (2) list of all statutes and rules in effect on the date of the report that are applicable to the permit review process engaged in by the department,
- (3) list of all statutes in effect on the date of the report that require or justify participation by the department in permitting processes and an explanation of how those statutes contribute to the protection of the fish and wildlife of this state,
- (4) discussion of any additional options for cost recovery available to the department, and
- (5) an explanation of the costs associated with permitting, including identifying the costs associated with technical review separately from costs associated with public benefits of the permitting process and the public involvement in the permitting process.

Table 1 displays the recompensable hours for the forty-two month period tracked to date and referenced above as a reporting requirement.

- 1) types of permits and state agencies that utilize the department's services for which invoicing will be allowed

Oregon Agencies and their associated permits that commonly require ODFW consultation include;

### **Department of Environmental Quality**

- Oil spill contingency plans
- Certification of Compliance with water quality standards

### **Department of Forestry**

- Forest Operation notifications and plans

### **Department of Geology and Mineral Industries**

- Chemical mining permitting
- Aggregate mining permitting
- Exploration mining and well monitoring
- Mineral Land Regulation & Reclamation Program

### **Department of State Lands**

- Removal-Fill permits (including General Authorizations)
- Wetland Mitigation

### **Department of Parks and Recreation**

- Ocean Shores permits

### **Department of Water Resources**

- Water right applications and transfers
- Alternate Reservoir permitting

### **Department of Agriculture**

- Shellfish Aquaculture/Oyster Plats Leases

### **Department of Energy**

- Energy Siting and Licensing

- 2) list of all statutes and rules in effect on the date of the report that are applicable to the permit review process engaged in by the department

The statutes below provide authority for the Department of Fish and Wildlife to consider and recommend protections for Oregon wildlife resources:

- 496.012 Wildlife Policy
  - 496.138 General duties and powers; rulemaking authority; hearing prior to budget request to Governor.
  - 506.109 Food Fish Management Policy
  - 496.168 Estimated expenses for recompensable assistance; invoices
  - 509.585 Fish passage required for artificial obstructions; statewide inventory; waiver of requirement by commission; rules; exemptions
- 3) list of all statutes in effect on the date of the report that require or justify participation by the department in permitting processes and an explanation of how those statutes contribute to the protection of the fish and wildlife of this state

The statutes below require Department consultation or require establishing a process for Department participation in permitting by other state agencies. These provide allowance for consideration of potential fish and wildlife impacts. This helps to support the Department's mission and furtherance of the Wildlife Policy (496.012) and Food Fish Management Policy (506.109):

### **Department of Environmental Quality**

#### Chapter 468 Water Quality

- ORS 468B.450 Willful or negligent discharge of oil; civil penalty; authority of director to mitigate
- ORS 468B.060 Liability for damage to fish or wildlife or habitat; agency to which damages are payable
- Division 41 Water Quality Standards; Beneficial Uses – OAR 340-041-0036 Turbidity
- Division 48 Certification of Compliance with Water Quality Requirements and Standards – OAR 340-048-0020 Application for Certification
- Division 141 Oil Spill Contingency Planning and Fees

### **Department of Forestry**

#### Chapter 527 Oregon Forest Practices Act

- ORS 527.670 Commencement of operations; rules; written plan; effect of plan; notice of chemical application; fees
- ORS 527.710 Duties and powers of board; inventory for resource protection; consultation with other agencies required
- Division 605 Planning Forest Operations – OAR 629-605-0120 Consultation, OAR 629-605-0170 Statutory Written Plans, OAR 629-605-0180 Interim Process for Protecting Sensitive Resource Sites Requiring Written Plans, OAR 629-605-0190 Written Plans for Operations Near Critical, Threatened, or Endangered Wildlife Habitat Sites
- Division 635 Water Protection Rules – OAR 629-640-0110 Live Tree Retention Credit for Improvement of Type F Streams
- Division 665 Specified Resource Site Protection Rules – OAR 629-665-0020 Application of Protection and Exception Rules; State Forester Duties; Landowner; Timber Owner and Operator Duties

## **Department of Geology and Mineral Industries**

### Chapter 517 Mining and Mining Claims

- ORS 517.795 Department to consult with and cooperate with other agencies
- Division 30 Oregon Mined Land Reclamation Act – OAR 632-030-0030 Department Action on Reclamation Plan and Operating Permit Application; Provisional Operating Permits; Local Government Actions
- Division 33 Oregon Mined Land Reclamation Act – OAR 632-033-0030 Department Action on an Exploration Permit Application
- Division 35 Oregon Mined Land Reclamation Act – OAR 632-035-0025

## **Department of State Lands**

### Chapter 196 Columbia River Gorge; Ocean Resource Planning; Wetlands; Removal and Fill

- ORS 196.635 Director to consult and cooperate with other agencies and interested parties
- ORS 196.810 Permit required to remove material from bed or banks of waters; statues of permit; exceptions; rules
- ORS 196.850 Waving permit requirement in certain cases
- ORS 196.905 Applicability
- Division 83 Solid Waste Planning and Recycling Grant Rules – OAR 141.083-0840 Application and Application Review Process
- Division 85 Administrative Rules Governing the Issuance and Enforcement of Removal Fill Authorization within Waters of Oregon including Wetlands – OAR 141-085-0534 Exemptions for Certain Voluntary Habitat Restoration Activities, OAR 141-085-0560 Public Review Process for Individual Removal Fill Permit Applications
- Division 89 General Authorizations – OAR 141-089-0630 Project Applicability
- Division 93 General Permits – OAR 141-093-0104 Project Applicability, OAR 141-093-0110 Public Review Process for Authorizing Project under a General Permit

## **Department of Parks and Recreation**

### Chapter 390 Ocean Shores

- ORS 390.725 Permits for removal of products along ocean shores; rules
- Division 20 Beach Construction/Alteration Standards – OAR 736-020-0003 Ocean Shore Application Review Process, OAR 736-020-0030 Natural and Cultural Resource Standards, OAR 736-020-0060 Review and Issuance of Emergency Permit

## **Department of Water Resources**

### Chapter 536 Water Resources Administration

- ORS 536.220 Policy on water resources generally; integrated water resources strategy

### Chapter 537 Appropriation of Water Generally

- ORS 537.132 Exemption from permit requirement for use of reclaimed water; rules
- ORS 537.135 Permit required to appropriate water for recharging ground water sources; minimum perennial streamflow required for permit; exception
- ORS 537.147 Permit to use stored water; fee
- ORS 537.409 Alternate permit application process for qualifying reservoirs; injury to existing users or fishery resources; public interest review; rules
- ORS 537.630 Time allowed for construction work under permit; certificate of completion; survey; ground water right certificate; requirements for supplemental water right

4) discussion of any additional options for cost recovery available to the department

Under existing law, the Department can be compensated for consultation with other agencies, and has been at times, including:

- Hydroelectric licensing (fees distributed by Water Resources Department)
- Energy Facility Siting Council consultation (costs reimbursed by Department of Energy)
- Fish passage liaison (funds provided by Department of Transportation)
- Compensation agreements with Department of Administrative Services, Department of State Lands and Department of Transportation for specific services like data and Geographic Information System (GIS) management

The Department can also enter into cost recovery agreements with non-government entities, for example:

- Transmission Line Siting and Licensing (fees distributed by Idaho Power Company and Portland General Electric)
- Permitting and Mitigation Review for Pipeline Construction (fees distributed from applicants (ex. Ruby Pipeline, Pacific Connector Gas Pipeline) thru Department of Energy)
- Instream and Riparian Habitat Restoration (funds received from Central Oregon Irrigation District)
- Sampling of genetic material and scales from fish collected from specific boats participating in at-sea data collection efforts (funds received from Oregon Salmon Commission)

In addition to cost recovery agreements, the agency has pursued general fund from the Legislature to compensate for collaborative work conducted by the Department in other agencies processes to protect Oregon’s wildlife resources. The Department of Fish and Wildlife currently receives 7% of its budget from General Fund, however the amount has ranged from 2 to 12%.

- 5) an explanation of the costs associated with permitting, including identifying the costs associated with technical review separately from costs associated with public benefits of the permitting process and the public involvement in the permitting process

Except for permitting associated with in-water blasting permitting (ORS 509.140) and authorization on fish passage requirements (ORS 509.585), all costs associated with the Department reviewing and consulting on other permitted activities is considered technical review. As described above the Department does not have authority on land use actions beyond requirements to consult and make recommendations during other agencies public permit review processes.

Table 1. Summary of recompensable hours and costs associated with permit review for other agencies tracked from July 1, 2016 to December 31, 2019 by Department of Fish and Wildlife.

<b>Agency and General Permit Type</b>	<b>Sum of Hours</b>	<b>Sum of Cost</b>
<b>Oregon Department of Environmental Quality</b>	<b>53.5</b>	<b>\$ 2,842.76</b>
Enhancement/Protection	5.0	\$ 282.20
Permit/Document Review	32.3	\$ 1,665.96
Pollution/Spill Response	11.3	\$ 656.84
Water Right Review/Alternate Reservoir	5.0	\$ 237.76
<b>Oregon Department of Forestry</b>	<b>36.0</b>	<b>\$ 1,760.81</b>
Enhancement/Protection	6.5	\$ 329.26
Federal/Forest Planning Process	3.0	\$ 152.60
Fill/Removal/In-water	4.0	\$ 203.47
Fish Salvage	20.0	\$ 964.03
Permit/Document Review	2.5	\$ 111.45
<b>Oregon Department of Geology and Mineral Industries</b>	<b>16.3</b>	<b>\$ 908.47</b>

Enhancement/Protection	2.0	\$ 96.40
Fill/Removal/In-water	1.5	\$ 72.30
Permit/Document Review	12.8	\$ 739.77
<b>Oregon Department of Land Conservation &amp; Development</b>	<b>8.0</b>	<b>\$ 397.94</b>
Fill/Removal/In-water	5.0	\$ 250.42
Permit/Document Review	3.0	\$ 147.52
<b>Oregon Department of State Lands</b>	<b>1,000.1</b>	<b>\$ 51,809.12</b>
Conservation/Nearshore Strategy	1.0	\$ 38.68
Enhancement/Protection	106.8	\$ 5,940.44
ESA Processes/Compliance/STPs	3.0	\$ 171.03
Fill/Removal/In-water	766.8	\$ 39,546.82
General	19.5	\$ 991.22
Permit/Document Review	92.0	\$ 4,637.04
Screens/Passage	10.0	\$ 436.34
Water Right Review/Alternate Reservoir	1.0	\$ 47.55
<b>Oregon Department of Transportation</b>	<b>28.0</b>	<b>\$ 1,435.74</b>
Enhancement/Protection	19.0	\$ 1,072.37
Fill/Removal/In-water	2.0	\$ 95.10
Screens/Passage	7.0	\$ 268.27
<b>Oregon Parks and Recreation Department</b>	<b>16.5</b>	<b>\$ 840.87</b>
Permit/Document Review	16.5	\$ 840.87
<b>Oregon Water Resources Department</b>	<b>3,173.5</b>	<b>\$ 162,274.59</b>
Enhancement/Protection	34.0	\$ 1,691.65
Fill/Removal/In-water	1.5	\$ 77.40
General	1.0	\$ 58.27
Hydrofund	6.0	\$ 353.43
Management	6.5	\$ 263.43
Permit/Document Review	26.5	\$ 1,491.45
Screens/Passage	96.3	\$ 4,133.51
Survey/Inspection	4.0	\$ 196.49
Water Right Review/Alternate Reservoir	2,997.8	\$ 154,008.96
<b>Oregon Watershed Enhancement Board</b>	<b>13.5</b>	<b>\$ 586.76</b>
Permit/Document Review	1.0	\$ 44.45
Screens/Passage	12.5	\$ 542.31
<b>Grand Total</b>	<b>4,345.3</b>	<b>\$ 222,857.06</b>

### Finalizing Efforts for House Bill 3315

This document completes the reporting obligation as directed in HB 3315. The Department continues to track time, and will begin billing other state agencies annually by invoicing on or about July 1, 2020, for HB 3315 defined work completed from July 1, 2019 to June 30, 2020.