



State Water Related Permits

A scenic landscape photograph showing a river flowing through a grassy field. In the background, there is a large, snow-capped mountain under a clear blue sky. The foreground is dominated by the river and the surrounding vegetation.

User
Guide



State Water Related Permits User Guide

An introduction to water related permits and reviews issued by Oregon state agencies.

Developed by the *Water Related Permit Process Improvement Team*:

- Department of State Lands
- Department of Fish and Wildlife
- Department of Environmental Quality
- Water Resources Department
- Parks and Recreation Department
- Department of Geology and Mineral Industries
- Department of Land Conservation and Development
- Department of Consumer and Business services

November 2006

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Table of Contents

Section 1 — Introduction	3
Section 1.1 Guidebook Overview and Organization	3
Section 1.2 Why Are Activities in Wetlands and Waterways Regulated?	3
Section 1.3 An Overview of Wetland and Waterway Regulation in Oregon	4
1.3.1 Local Regulation	4
1.3.2 State Regulation	4
1.3.3 Federal Regulation.....	4
Quick Reference Table – Common In-Water Activities	5
Section 2 — Program Descriptions	6
Section 2.1 Department of State Lands	6
2.1.1 Wetland Determination and Delineations.....	6
2.1.2 Removal-Fill Permit.....	10
2.1.3 Land Management of State-Owned Waterways	14
Section 2.2 Department of Environmental Quality	18
2.2.1 1200-C Construction Stormwater Permit	18
2.2.2 401 Water Quality Certification.....	21
Section 2.3 Oregon Department of Fish and Wildlife	24
2.3.1 Fish Passage Requirement.....	24
2.3.2 In-water Timing Guidelines.....	29
2.3.3 Fish and Wildlife Habitat Mitigation Recommendations.....	32
2.3.4 Scientific Take Permit.....	34
2.3.5 In-Water Blasting Permit.....	36
2.3.6 Fish Screening or Bypass Requirement	39
Section 2.4 Oregon Parks and Recreation Department	43
2.4.1 Ocean Shore Permit.....	43
2.4.2 State Scenic Waterway Notification.....	47
2.4.3 SHPO Review of Water-Related Permits.....	50
Section 2.5 Oregon Water Resources Department.....	53
2.5.1 Water Use Permit	53
2.5.2 Limited License.....	57
Section 2.6 Department of Land Conservation and Development.....	59
2.6.1 CZMA Certification	59
Section 2.7 Brief Overview of Related Agencies’ Programs.....	62
2.7.1 Forest Practices Act.....	62
2.7.2 Agriculture Water Quality Program (Senate Bill 1010).....	64
2.7.3 Mineral Land Regulation and Reclamation.....	65
Section 3 — Resource Guide for Common In-Water Activities	66
Section 3.1 Stream Bank Stabilization	66

Section 1



Introduction

Section 1.1 Guidebook Overview and Organization

The purpose of the User’s Guide to State Water-Related Permits is to provide a comprehensive, yet simple reference for the regulatory and nonregulatory programs that influence the permitting of projects in wetlands and waterways in Oregon. The information contained in this guide is designed to assist applicants in planning their water-related project to avoid the last-minute “surprises” that may result in construction delays. This guide will help applicants identify:

- Which permits may be required for an activity
- The general application requirements and timelines for those permits
- How the requirements of related state agencies may influence a specific permit or project design

The guide is meant to be the first step in planning a waterway project. It begins with an introduction that includes description of the importance of wetland and waterway protection, an overview of the regulations involved at the local, state, and federal levels, and an illustration of how the various state regulatory authorities are inter-related. [Section 2](#) describes the state agencies typically involved in water-related permitting in Oregon and presents information about each agency’s permit and/or review programs. [Section 3](#) (development in progress) provides examples of the most common water-related project types, design considerations, best management practices, and links to important resources.

Section 1.2 Why Are Activities in Wetlands and Waterways Regulated?

The protection, conservation, and best use of the water resources of Oregon are matters of utmost public importance. Waterways such as streams, rivers, lakes, bays, and estuaries not only provide water for agricultural, domestic, and industrial use, but also provide habitats for aquatic life, avenues for transportation and commerce, and sites for many forms of public recreation. Wetlands provide water storage for flood protection, filtering of pollutants, and habitats for many plant, fish, and wildlife species. Waterways and wetlands are vital to the economy and well being of Oregonians.

For this reason, we all depend on the health of our wetlands and waterways in one way or another. To provide for the best possible use of water resources in this state, we must strike a balance between protection and human use. This is the central purpose of Oregon’s regulations that govern activities in waterways, wetlands, and their riparian areas.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
DLCD Oregon Department of Land Conservation and Development
DOGAMI Oregon Department of Geology and Mineral Industries
DSL Oregon Department of State Lands
ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
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WRD Oregon Water Resources Department



Section 1.3 An Overview of Wetland and Waterway Regulation in Oregon

1.3.1 Local Regulation

When planning a project in wetlands or waterways, you should check first with the applicable local planning department to determine what, if any, city or county regulations apply. Some cities have developed maps that show many of the wetlands and waterways within their community and have developed local ordinances regulating activities in or near those features. Local planning department employees may also be able to help you understand the range of state and/or federal permits required for your water-related project.

1.3.2 State Regulation

In Oregon, protecting our natural resources and the benefits they provide us means a variety of permits and reviews from several state agencies may be required for residential, commercial, industrial, or public works projects in wetlands and waterways. The primary goal of these requirements is to avoid and minimize impact to Oregon's waters where possible and compensate (or mitigate) where impacts cannot be avoided. At first glance, the process of identifying and obtaining your state permitting needs for water-related projects looks complicated and difficult to understand. That is why this *User's Guide to State Water-Related Permits* was written – to help you understand the state permits needed for your water-related project.

In Oregon, the [Removal-Fill Permit](#), administered by the Department of State Lands, is the most common state requirement for projects in wetlands or waterways. It often serves as the venue for coordinating your project's other state water-related permitting and review requirements. You may want to begin your reading [here](#) as the foundation to understanding the state permitting requirements for your water-related project.

1.3.3 Federal Regulation

In many cases, proposed activities in wetlands or waterways in Oregon will additionally require a permit from the federal government under the Clean Water Act (called the "Section 404 permit") or the Rivers and Harbors Act (called the "Section 10 Permit"). The federal permitting program is administered by the U.S. Army Corps of Engineers. Currently, the Oregon Department of State Lands (for the state Removal-Fill Permit) and the U.S. Army Corps of Engineers (for the "Section 404" or "Section 10" permit) use a joint permit application form so that applicants need to fill out just one application to obtain both permits. **However, projects require separate authorizations from both agencies before proceeding**, and each agency may require additional information though their respective application processing periods. For more information on the federal permit program for activities in wetlands and waterways, go to the U.S. Army Corps of Engineers, Portland District Regulatory Program Web site: <http://www.nwp.usace.army.mil/op/g/home.asp>.

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Quick Reference: State Permits and Reviews for Common in-Water Projects

The following matrix is a quick guide to state agency permits or reviews that are, or may be, required for some common in-water activities. This matrix is a preliminary tool for assessing state permit/review needs and should not be used as a definitive assessment of permit requirements for your project. If your in-water project does not match one of the common activities listed below, please contact the [Department of State Lands resource coordinator](#) serving your county for further guidance.

Yes = typically required for most projects in waterways or wetlands.

Maybe = sometimes required depending on whether the activity is located in an area regulated by the particular program.

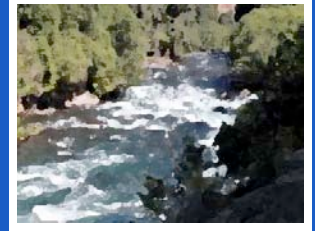
Agency	Program	Common In-water Activities									
		Streambank stabilization	Instream gravel removal	Wetland fills	Bridges and culverts	Piling projects	Maintenance dredging	Water diversions	Utility lines & outfalls	Wetland or stream restoration	Dams & impoundments
DSL	Removal-Fill Permit	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Proprietary approval	Maybe	Maybe			Maybe	Maybe		Maybe		
DEQ	Stormwater Permit			Maybe	Maybe					Maybe	
	Water Quality Certification	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
ODFW	Fish passage requirements				Yes					Yes	Yes
	In-water timing guidelines	Yes	Yes		Yes	Yes	Yes	Yes	Maybe	Maybe	Yes
	Habitat mitigation recommendations	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Scientific Take Permit	Maybe			Maybe			Maybe	Maybe	Maybe	Maybe
	In-water Blasting Permit									Maybe	
	Fish screening requirements	Maybe	Maybe		Maybe		Maybe	yes	Maybe	Maybe	Maybe
OPRD	Ocean Shore Permit	Maybe		Maybe	Maybe	Maybe	Maybe		Maybe	Maybe	
	Scenic Waterway Permit	Maybe	Maybe	Maybe	Maybe	Maybe	Maybe	Maybe	Maybe	Maybe	Maybe
	Archeological review	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
WRD	Water Use Permit	Maybe		Maybe	Maybe			yes		Maybe	Yes
DLCD	Coastal Zone Certification	Maybe	Maybe	Maybe	Maybe	Maybe	Maybe	Yes	Maybe	Maybe	Maybe

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Section 2



Program Descriptions

Section 2.1 Department of State Lands

2.1.1 Wetland Determination and Delineations

Agency:

Department of State Lands (DSL)



Western Region Office

775 Summer St. NE, Suite 100
Salem, OR 97301

Phone: (503) 378-3805
Fax: (503) 378-4844

Eastern Region Office

1645 NE Forbes Road, Suite 112
Bend, OR 97701

Phone: (541) 388-6112
Fax: (541) 388-6480

Web site: <http://oregon.gov/DSL/index.shtml>
Click [here](#) for staff e-mail directory.

Description:

A wetland determination and wetland boundary delineation may be needed to determine what areas of a project site are subject to state [Removal-Fill Permit](#) requirements and federal [Section 404 permit](#) requirements. **Wetland determinations** assess only the presence or absence of wetlands and other waters of the state within a given site. A **wetland delineation** is a more detailed study that defines the boundaries of the wetland(s) within a site.

The department conducts off-site wetland determinations for the public upon request. Sometimes, an off-site determination by DSL using available wetland and soil maps and information from the landowner is sufficient to get the process started. DSL staff can sometimes conduct an on-site wetland determination, as staffing allows.

If the off-site or on-site determination reveals that wetlands are probable or present and there are development plans for the site, you will likely be referred to private consultants who can perform the detailed wetland delineation and mapping process for you.

All wetland delineation reports should be submitted to the wetlands program manager at DSL for verification and a written jurisdictional determination — a determination of

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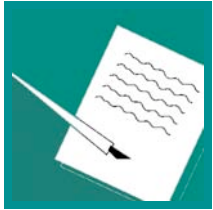
which areas are subject to state Removal-Fill Permit requirements — prior to any ground alteration. For projects proposed in wetlands, the state [Removal-Fill Permit](#) application requires that a wetland delineation be completed and verified or “concurred with” by DSL before the permit can be issued.

The [Wetlands Program page](#) at the DSL Web site provides a range of information on topics such as wetland identification, planning, mitigation, wetland inventories, and the wetland banking program.

Statute/rule: [ORS 196.800](#) et seq.
[OAR 141-090-0005](#) et seq.

Activities typically requiring this action: Proposed ground alteration activity within a wetland including but not limited to wetland fills and wetland or stream restoration typically triggers the need for a wetland delineation. How do I know if I have a wetland on my project site? Click [here](#) for more information.

Application requirements: To begin the process, a landowner may request an “off-site” determination by DSL. The off-site determination will inform the landowner of the likelihood of wetlands (and/or other water features) being on the property and whether a wetland delineation study is required. An off-site determination by DSL may be requested using the following form: [Wetland Determination Request Form](#)



If a wetland delineation is determined to be necessary, you will be referred to private consultants who can perform the detailed wetland delineation and mapping process for you. If you already know that wetlands are or are likely present, you do not need to start with an off-site determination request. DSL offers the following information to help you select a wetland consultant: [Just the Facts – Choosing and Using a Wetland Consultant](#)

Time frame: DSL staff can typically complete an off-site wetland determination within approximately three weeks of receiving your request.

The time needed to prepare a wetland delineation report will vary depending on the size and complexity of the site, time of year, and availability of your consultant. Before hiring a consultant, be sure you understand the report preparation and review time frame that will be involved.

The time required for DSL to complete its initial review of the wetland delineation will vary depending on the purpose of the delineation. For delineations that are submitted with a [Removal-Fill](#) application or within 90 days of anticipated application submittal; submitted as part of a proposed wetland mitigation bank; or submitted as part of the [Industrial Land Certification Program](#), DSL will review and provide comment (as applicable) within 120 days of receiving the study. Please see [Just the Facts #8: Wetland Delineation Report Review Process](#) for more information on how DSL prioritizes the review of wetland delineations. You may check, online, the review status of any wetland delineation report submitted to DSL. Click [here](#) to view this feature.

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Because of the significant time involved with preparing, submitting, and having your wetland delineation reviewed, it is important that the delineation process be initiated early in the planning stages of your project.

Application fees: Currently, DSL charges no fees to conduct off-site or on-site wetland determinations or review wetland delineation reports.



The fee charged by wetland consultants to prepare the wetland delineation study varies widely depending on such factors as: size and complexity of the site, site location, and competition. Because the fees charged by consultants for wetland delineation studies are not regulated by the state, DSL strongly recommends that you evaluate several firms before making a decision. Because wetland consultants are not licensed or certified, we also recommend that you check references.

Standards of review/approval: When a wetland delineation report is submitted to DSL for approval, the staff reviews it for technical accuracy. If the report meets the applicable standards and provides sufficient information for DSL to make a determination of what areas (if any) meet wetland criteria or other waters of the state and are subject to [Removal-Fill Permit](#) requirements, the staff member approves (“concurrs with”) the report. DSL staff members may request additional or clarifying information and/or conduct an on-site inspection prior to approval. The following resources identify the requirements for a complete delineation report and DSL’s review standards:

- [Wetland Delineation Report Guidance, DSL, US Army Corps of Engineers and USEPA, July 2005](#)
- [Standards for wetland delineation reports](#) (OAR 141-090-0030 to -0035)
- [DSL procedures for review and approval of delineation reports](#) (OAR 141-090-0040)
- [DSL wetland delineation review checklist](#)

Duration: DSL issues its concurrence with a wetland delineation report for a period of up to five years. The DSL concurrence letter will specify the duration of the concurrence. (Note, however, that concurrence letters issued prior to July 1, 2001 did not include the expiration date.) Delineations are given an expiration date because over time, conditions can change either at the site level or regional level, causing wetland boundaries to shift. An expired delineation may be reissued upon field inspection by DSL or submittal of an updated delineation report, which provides for an abbreviated process. [Requirements for reissuing a delineation approval](#) (OAR 141-090-0045(4))

Other agencies’ programs commonly associated with this permit or review The following other state agency actions are typically associated with the wetland delineation process:

- [Removal-fill permit](#) – DSL

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Special considerations:



- Because delineating wetland boundaries requires data interpretation and professional judgment, reports may be revised before DSL approves them. **Do not count on the accuracy of a wetland delineation until you get a concurrence letter from DSL.**
- DSL strongly recommends that the wetland delineation be conducted well in advance of detailed project planning. Until the wetlands are located and their boundaries mapped, appropriate steps to avoid and minimize impacts, as required by state and federal law, cannot be taken. If you already have incurred considerable expense for site planning and obtained local government approvals, any DSL or U.S. Army Corps of Engineers requirements to further reduce wetland impacts can cause you substantial additional cost and delay.
- The U.S. Army Corps of Engineers will generally review a delineation report only when it is submitted along with a [Section 404 Permit](#) application; they may rely on DSL's delineation concurrence but are not bound to do so. Their jurisdictional determinations for waters of the United States often differ from DSL's jurisdiction.
- Oregon's typically wet winters and dry summers mean that many wetland features in Oregon are of a seasonal nature, that is, they are most evident in the early growing season and dry by mid-summer. Accordingly, and where possible, wetland delineation studies are best performed in the early growing season (February – April for many parts of the state). Studies conducted in summer or fall will still be reviewed by DSL.
- DSL has developed eight fact sheets on various wetland issues for your further information:

[Just the Facts #1: The National Wetlands Inventory](#)

[Just the Facts #2: the Local Wetlands Inventory](#)

[Just the Facts #3: Wetlands and Waterways Regulation](#)

[Just the Facts #4: How to Identify Wetlands](#)

[Just the Facts #5: Wetland Functions and Assessment](#)

[Just the Facts #6: Compensatory Mitigation for Wetlands Impacts](#)

[Just the Facts #7: Choosing and Using a Wetlands Consultant](#)

[Just the Facts #8: Wetland Delineation Report Review Process](#)

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2.1.2 Removal-Fill Permit

Agency:

Department of State Lands (DSL)



Western Region Office

775 Summer St. NE, Suite 100
Salem, OR 97301

Phone: (503) 378-3805

Fax: (503) 378-4844

Eastern Region Office

1645 NE Forbes Road, Suite 112
Bend, OR 97701

Phone: (541) 388-6112

Fax: (541) 388-6480

Web site: <http://oregon.gov/DSL/index.shtml>

Click [here](#) for staff e-mail directory.

Description:

A Removal-Fill Permit is typically required for projects involving 50 cubic yards or more of alteration of streambed, stream banks, or in wetlands. For projects located in [essential salmon habitat waterways](#) or [state scenic waterways](#), any quantity of alteration requires a Removal-Fill Permit. There are three forms of Removal-Fill authorization:

- [Individual Permit](#): Applies to projects with potentially significant impacts to waters.
- [General Authorization](#): Provides expedited review process for certain categories of small projects.
- [Emergency Authorization](#): May be issued in very limited circumstances where there is an immediate threat to public health, safety, or substantial property.

Some activities are exempt from Removal-Fill Permit requirements. Click [here](#) for more information on exempt activities. Contact a DSL [Resource Coordinator](#) to help you determine if your activity is exempt.

Jurisdictional limits:

Ocean: From the extreme low-tide elevation seaward to the limits of the [territorial sea](#). For the ocean beach, the Oregon Parks and Recreation Department (OPRD) administers the [Ocean Shore Permit](#) program in lieu of the Removal-Fill Permit.

Tidal bays, estuaries, and other tidal waters: To the [highest measured tide elevation](#).

Freshwater rivers, streams, lakes, ponds: To the [ordinary high water or bankfull stage](#).

Wetlands: To the [delineated wetland boundary](#).

Statute/rule:

[ORS 198.600](#) et seq.

[OAR 141-085-0005](#) et seq.

Activities typically requiring this permit:

[Stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland/stream restoration, maintenance dredging, water diversions; utility lines and outfalls, dams and impoundments

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Application requirements:



For an individual Removal-Fill Permit or General Authorizations, apply using the [Joint Permit Application Form](#). All blocks must be completed in their entirety before submittal. Submit the application to both DSL and the U.S. Army Corps of Engineers. Both agencies use the same application form but have separate application processes and issue separate authorizations. Resources to assist you in completing the application:

- [Directions for completing joint application form](#)
- [Application completeness checklists](#)
- [Eligibility criteria for General Authorizations](#)

Professional consulting services are also available to assist you in developing Removal-Fill Permit application materials. Click [here](#) for more information on hiring a wetland consultant.

Before submitting an application, it may be helpful to request a pre-application meeting with a DSL [Resource Coordinator](#). The Coordinator can help you determine what form of Removal-Fill Permit you may need, discuss project options, identify local resources for you, and help identify other state agency permit requirements. Click [here](#) to find the Resource Coordinator for your area.

Time frame:

Individual Permit: Typical time frame is up to 120 days. This includes an up to 30-day period for the DSL staff to review your application and ensure it is complete; a 30-day public review period (see “Special considerations”); and a final, up to 60-day period for final processing of your application and preparation of the permit decision documents. It is important to note that DSL will put only complete applications out for public review. If your application is found to be incomplete, you will be asked to resubmit a complete application and the initial 30-day review period will start again.

General Authorization: Typical time frame is up to 40 days. This includes an up to 15-day period for the DSL staff to review your application and ensure it is complete; a 15-day public review period; and a final, up to 10-day period for final processing of your application and preparation of the permit decision documents. It is important to note that DSL will put only complete applications out for public review. If your application is found to be incomplete, you will be asked to resubmit a complete application and the initial 15-day review period will start again.

Emergency Authorization: DSL may issue an emergency authorization as soon as the applicant provides sufficient information on the location and nature of the emergency and the proposed action. Contact a [DSL Resource Coordinator](#) for further information.

Application fees:

Individual Permit: \$50 to \$600 depending on applicant type and alteration volumes. Click here for current [fee schedule](#). Application fee must be paid in full as part of a complete application.

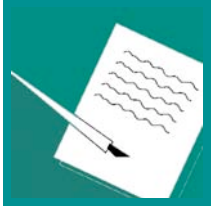
There is currently no application fee for General Authorizations and Emergency Authorizations.

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Standards of review/approval:



DSL will only issue a Removal-Fill Permit for a project that is the practical option having the least adverse effects on the wetland or waterway and its navigation, fishing, and public recreation uses. Considerations for approval include:

- What is the public need for the proposed project and public benefits likely to result from the project?
- What is the cost to the public if the project is not accomplished?
- Will the project interfere with public health and safety?
- Is the project compatible with the local comprehensive land-use plan?
- Will the project unreasonably interfere with navigation, fishing, and public recreation uses of the waters?
- Will the project increase erosion or flooding upstream and downstream of the project or redirect water from the project site to adjacent lands?
- Are there practical alternatives for the project that have less impact to wetlands or waterways?
- Is there appropriate mitigation for all reasonably expected adverse impacts resulting from project development?

These considerations are further defined in Oregon Administrative Rule [OAR 141-085-0029](#), paragraph (3).

Permit duration:

Individual Permits: Up to five years upon request and upon receipt of annual renewal fees. May be renewable after five years with submission of an updated application form.
General Authorizations: One to three years depending on when you apply.
Emergency Authorizations: 60 days from date of issuance.

Other agencies' programs commonly associated with this permit or review

The following other state agency actions typically occur as part of Removal-Fill Permit processing:

- [Wetland determinations and delineations](#) - DSL
- [In-water timing guidelines](#)-ODFW
- [Fish passage requirement](#) -ODFW
- [Habitat mitigation recommendation](#) – ODFW
- [Archeological review](#) – OPRD
- [Coastal Zone Management Act Consistency Certification](#) (for projects located within the [Coastal Zone](#)) - DLCDC

Other commonly required state approvals with separate application requirements include:

- [Proprietary authorization](#) (e.g., lease or easement if project is in a state-owned waterway) - DSL
 - [1200-C Stormwater Permit](#) (for construction sites larger than one acre) - DEQ
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the US Army Corps of Engineers) – DEQ

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Special considerations:



- Many projects in wetlands or waterways will require a permit from the U.S. Army Corps of Engineers in addition to the DSL Removal-Fill Permit. Click [here](#) for a link to the Corps’ regulatory Web site describing federal permitting requirements.
- If your project entails removal or fill in wetlands, a DSL-approved wetland delineation report will likely be necessary to complete the processing of your application. DSL advises that you prepare and submit the wetland delineation report up to 90 days in advance of submitting your Removal-Fill Permit application. Go to the “[Wetland Determinations and Delineations](#)” section of this Users Guide for more information on wetland delineation requirements and consulting services.
- Applicants seeking a Removal-Fill Permit to alter wetlands or waterways will typically be required to replace, or mitigate, the impact by improving, creating, or restoring wetlands or waterways. A complete Removal-Fill Permit application must include a Compensatory Mitigation Plan describing specifically how the wetland or waterway impacts will be mitigated. Click [here](#) for more information on compensatory mitigation requirements and mitigation plan guidance.
- Block 7 of the application for a Removal-Fill Permit must be signed by your local jurisdiction’s planning department staff before sending the application to DSL. The planning department staff will review the project to ensure that it is compatible with local land-use laws.
- Applications are subject to a 15- or 30-day public review period for General Authorizations and individual Removal-Fill Permits, respectively. DSL will send your complete application to adjacent property owners, the city or county planning department, several state and federal agencies, and other interested parties for review and comment. DSL relies on the applicant to provide a complete listing (names and addresses) of all property owners adjacent to the project site (and mitigation site, if applicable) on the application form. At the close of the public review period, the DSL Resource Coordinator will send you a copy of all comments received by DSL and relevant to DSL’s decision-making authority. You will be invited to provide a written response. You may contact the commenting party directly for further discussion or clarification or contact the DSL Resource Coordinator for guidance on responding to comments.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
DLCD Oregon Department of Land Conservation and Development
DOGAMI Oregon Department of Geology and Mineral Industries
DSL Oregon Department of State Lands
ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.1.3 Land Management of State-Owned Waterways

Agency:

Department of State Lands (DSL)



Western Region Office

775 Summer St. NE, Suite 100
Salem, OR 97301

Phone: (503) 378-3805

Fax: (503) 378-4844

Eastern Region Office

1645 NE Forbes Road, Suite 112
Bend, OR 97701

Phone: (541) 388-6112

Fax: (541) 388-6480

Web site: <http://oregon.gov/DSL/index.shtml>

Click [here](#) for staff e-mail directory.

Description:

Many uses of, and structures occupying, state-owned submerged and/or submersible land require DSL's prior written approval. Common authorizations include:

- [Waterway Lease](#): For commercial and non-commercial marina/moorages, industrial, non-marine uses, floating homes, and large (more than 2,500 square feet) non-commercial docks, and boathouses.
- [Waterway Structure Registration](#): Non-commercial docks, and boathouses under 2,500 square feet. Floating recreational cabins less than 1,500 square feet, ski jumps, mooring buoys, etc.
- [Wharf Registration](#): Registration of a structure that is actively and exclusively used to accommodate ships, boats, or vessels engaged exclusively in the receipt and discharge of goods or merchandise, or in the performance of active government functions on the waterway.
- [Temporary Use Permit](#): An authorization allowing the short-term use of a specific area of state-owned submerged and/or submersible land for a specific use under specific terms and conditions.
- [Public Facility License](#): Public agency owned, operated, and maintained docks/floats, boat ramps, boat landings, floating restrooms, navigational aids, and viewing structures with no, or a nominal, fee.
- [Easement](#): Gas, electric, and communication lines (including fiber optic). Pipeline, conduit, and storm/sewer lines. Bridges, skylines, and logging lines; roads and trails; and railroad track.
- [Sand and Gravel License](#): Removing sand and gravel from state-owned submerged and submersible lands, or removing dredge spoils from the initial point of deposit.
- [Special Use Lease/Permit](#): This category covers other uses of state-owned submerged and submersible lands that are not covered under the other uses. Some examples are log salvage and wave energy generation.

State Agency acronyms:

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There are some activities on state-owned submerged and submersible lands that are exempt from proprietary authorization. Contact a DSL [Property Manager](#) for further assistance.

Jurisdictional limits:



State-owned submerged and/or submersible lands including:

- **Ocean:** From ordinary high water line seaward to the three-nautical-mile-limit of the territorial sea, unless specified otherwise.
- **Tidal Waterways:** To the ordinary high water line, unless specified otherwise.
- **Navigable Waterways and Meandered Lakes:** To the ordinary high water line, unless specified otherwise. Click [here](#) for information on which waterways and lakes are state-owned in Oregon.

Statute/rule:

[ORS 274.00](#) et seq.

[ORS 780.040](#)

[OAR 141-014 \(sand and gravel leases\)](#)

[OAR 141-082 \(other leases, licenses, temporary use permits and registrations\)](#)

[OAR 141-083 \(easements\)](#)

[OAR 141-125 \(special use permits\)](#)

Application requirements:

Requirements vary depending on type of authorized use. Some general application requirements of all proprietary authorizations include:

- Location map showing the location of the structure relative to its surroundings.
- A county assessor tax map that shows the location of the proposed structure or use area.
- Photo of the existing structure or site of proposed structure or use area.
- Drawing to scale, or survey of proposed structure or use area.
- Additional waterfront owner information/comments.
- City/County planning department affidavit.

Click [here](#) to get commonly used proprietary authorization application forms.

Time frame:

Waterway Structure Registration: A complete application, where the applicant is the upland waterfront owner and where there are no objections from the adjacent waterfront owners, may be processed and issued within approximately 30 days.

Other Proprietary Authorizations: All other proprietary authorization applications are typically subject to a 30-day public review period once the application has been determined complete. Final processing and preparation of decision documents will typically take an additional 30 days.

Activities typically requiring this permit:

Most activities involving use of, and structures occupying, state-owned submerged and/or submersible land including, but not limited to: [stream bank stabilization](#), in-stream gravel removal, bridges and culverts, piling projects, maintenance dredging, water diversions, utility lines and outfalls, wetland or stream restoration, dams and impoundments.

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Application fees:

- Waterway Lease: \$750
- Waterway Structure Registration: Varies from \$125 to \$350, depending on the size and type of structure
- Wharf Registration: No application fee
- Temporary Use Permit: No application fee
- Public Facility License: \$250
- Easement: \$750 application fee
- Territorial Sea Easement: \$5,000 application fee
- Sand and Gravel License: No application fee
- Special Use Lease: \$500 application fee
- Special Use Permit: \$250 to \$500 application fee

NOTE: Application fees cover the processing of the application, and are in addition to compensation due for the use of state-owned land or a state-owned resource. For example, leases require the payment of annual rent. A sand and gravel license requires payment of royalty. An easement may require compensation for the use of state-owned land. A [DSL Property Manager](#) can assist you in determining the correct application fee and any compensation fee for your proposed project on state-owned submerged or submersible lands. Revenue generated from state-owned lands goes into the [Common School Fund](#).

Standards of review/approval:

DSL considers the following elements prior to issuing a proprietary authorization:

- Completeness of the application.
- Adjacent waterfront owner comments.
- Upland waterfront owner comments (if applicable).
- State and local regulatory agency comments (if applicable).
- Local land-use compatibility.

Permit duration:

- Waterway Lease: Up to 15 years with an option for a 15-year renewal.
- Waterway Structure Registration: Five years, with five-year renewal periods.
- Wharf Registration: Commercial wharfs are for five years with an option for renewal. Government wharf registrations are good for 10 years with an option for renewal.
- Temporary Use Permits (Waterway Leasing): Up to one year with an option for renewal.
- Public Facility License: 15 years, with an option for a 15-year renewal.
- Easement: Varies.
- Territorial Sea Easement: Up to 20 years with an option for a 20-year renewal.
- Sand and Gravel License: Up to three years with an option for renewal.
- Special Use Lease: Up to 30 years.
- Special Use Permit: Up to one year.

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WRD Oregon Water Resources Department

Other agencies' programs commonly associated with this process



The following other state agency actions typically occur as part of an application for DSL proprietary authorization:

- [In-water timing guidelines](#) – ODFW
- [Fish passage requirement](#) – ODFW
- [Habitat mitigation recommendation](#) – ODFW
- [Archeological review](#) – OPRD
- [Coastal Zone Management Act Consistency Certification](#) (for projects located within the [Coastal Zone](#))

Other commonly required state approvals with separate application requirements include:

- [Removal/Fill Permit](#) – DSL
- [Ocean Shore Permit](#) – OPRD
- [1200-C Stormwater Permit](#) (for construction sites larger than one acre) – DEQ
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) – DEQ

Special considerations

- This is **not** a regulatory permit process. A proprietary authorization is a landlord-tenant agreement between the State of Oregon and the applicant. DSL may require additional information, issue a conditional authorization, or deny an application as deemed appropriate.
- Many projects in state-owned waterways will require a permit from the U.S. Army Corps of Engineers in addition to the [DSL Removal-Fill Permit](#). Click [here](#) for a link to the Corps' regulatory Web site describing federal permitting requirements.
- Placement or modification of structures in waterways may additionally require titling or licensing by the Oregon State Marine Board. Use of encapsulated foam floatations additionally requires a permit from OSMB. Please visit the [OSMB Web site](#) for further information on these requirements.
- The application for a DSL proprietary authorization must be signed by your local jurisdiction's planning department staff before sending the application to DSL. The planning department staff will review the project to ensure that it is compatible with local land-use laws.
- Applications (except Waterway Structure Registrations) are subject to a 30-day public review period. DSL will send your complete application to adjacent property owners, the city or county planning department, several state and federal agencies, and other interested parties for review and comment. DSL relies on the applicant to provide a complete listing (names and addresses) of all property owners adjacent to the project site on the application form. At the close of the public review period, the DSL Property Manager will send you a copy of all comments received by DSL and relevant to DSL's decision-making authority. You will be invited to provide a written response. You may contact the commenting party directly for further discussion or clarification or contact the DSL Property Manager for guidance on responding to comments.

State Agency acronyms:

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OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Section 2.2 Department of Environmental Quality

2.2.1 1200-C Construction Stormwater Permit

Agency:



Water Quality Division

Surface Water Management Section

811 S.W. Sixth Ave.

Portland, OR 97204

Phone: (503) 229-6850

(800) 452-4011

Fax: (503) 229-6037

Contact: Don Yon

Web site: www.deq.state.or.us

Description:

A 1200-C Construction Stormwater National Pollutant Discharge Elimination System (NPDES) Permit regulates stormwater runoff from construction activities that disturb one or more acres of land in Oregon. The Federal Clean Water Act requires regulation of stormwater runoff from construction activities.

Studies have shown that construction sites can contribute more sediment to streams than was previously deposited over several decades at the same locale. When excessive amounts of sediment enter waters, a variety of water quality uses can suffer, particularly fish and wildlife habitat.

The 1200-C permit requires permit holders prepare an Erosion and Sediment Control Plan and incorporate Best Management Practices into their construction work. Best Management Practices are used to prevent erosion and control sediment runoff from the site.

The permit focuses on preventing pollution from erosion and runoff. In addition, the permit requires permit holders to inspect and maintain their controls to ensure they are working to prevent erosion and sediment runoff from the site.

Jurisdictional limits:

Construction-related activities involving one acre or more of ground disturbance and the potential for discharge to surface waters.

Statute/rule:

[ORS 468B.050](#) et seq.

[OAR 340-045-0015 and 0033\(5\)](#) et seq.

[Federal Clean Water Act Section 402](#)

Activities typically requiring this permit:

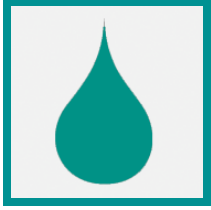
[Stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments

State Agency acronyms:

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DOGAMI Oregon Department of Geology and Mineral Industries
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ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Application requirements:



Permit application forms and related guidance can be found in DEQ’s new [Construction Storm Water Permit Guide](#) or can be obtained at a DEQ regional office or through a DEQ agent.

For those who do not have access to the Internet, please contact the DEQ representative or DEQ agent, who can provide assistance on the preparation and submittal of the application. Please submit the completed application form, a Land Use Compatibility Statement, Erosion and Sediment Control Plan, and fees to the DEQ office or to the DEQ agent in your project area.

Once you submit the application, DEQ or its agent will review the forms to make sure the application is complete as well as technically and administratively adequate. DEQ or its agent will return incomplete applications with a list of missing information.

Please note: An incomplete application (incomplete forms, applications submitted without fees, etc.) will be returned to you and will slow the processing of your permit.

DEQ regional offices:

- Bend: (541) 388-6146
- Coos Bay: (541) 269-2721
- Eugene: (541) 686-7838
- Medford: (541) 776-6010
- Pendleton: (541) 276-4063
- Portland: (503) 229-5263
- Salem: (503) 378-8240

DEQ agents:

- City of Estacada: (503) 630-8274
- City of Eugene: (541) 682-5249
- City of Hermiston: (541) 667-5025
- City of Lake Oswego: (503) 675-3991
- City of Myrtle Creek: (541) 863-3171
- City of Troutdale: (503) 674-7270

Clean Water Services, serving Washington County: (503) 681-3646

Clackamas County Service District #1: (503) 353-4594

Timeframe: Minimum 5 weeks.

Application fees: You must submit the appropriate permit fees to DEQ or its agent at the time you apply for a new permit or renew an existing permit. If you are applying for a new permit, you must pay \$670, which includes a \$60 filing fee, a \$280 application-processing fee, and a \$330 annual fee. If you are renewing your permit, you must pay \$100, which includes a \$60 filing fee and a \$40 renewal application-processing fee. If you are submitting your application to a DEQ agent, please contact the agent for information on the fees.

Standards of approval: Key to the approval of your 1200-C permit is the submittal of a complete Erosion and Sediment Control Plan for your project site. DEQ offers extensive information, templates, and samples within their [Construction Storm Water Permit Guide](#) .

Permit duration: Five years upon request and upon receipt of annual renewal fees. Renewable after five years with submission of a renewal application form.

State Agency acronyms:

- DEQ** Oregon Department of Environmental Quality
- DLCD** Oregon Department of Land Conservation and Development
- DOGAMI** Oregon Department of Geology and Mineral Industries
- DSL** Oregon Department of State Lands
- ODA** Oregon Department of Agriculture

- ODF** Oregon Department of Forestry
- ODFW** Oregon Department of Fish and Wildlife
- OPRD** Oregon Parks and Recreation Department
- SHPO** State Historic Preservation Office
- WRD** Oregon Water Resources Department

Other agencies' programs commonly associated with this permit or review

Other commonly required state approvals with separate application requirements include:

- [Removal-Fill Permit-DSL](#)
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) - DEQ

Special considerations:



1. Effective January 1, 2006: New requirements include:

- Implement an Erosion and Sediment Control Plan that meets new Best Management Practices requirements.
- Do not cause a violation of the state's in-stream surface water quality standards.
- Prevent significant amounts of sediment from entering surface waters. If this occurs, take immediate actions to correct the problem.
- Submit revisions to the Erosion and Sediment Control Plan to DEQ or your DEQ agent at least 10 days before implementing the revisions.
- Document all required monitoring and inspections, and keep documentation on-site and updated.

2. Effective June 1, 2006: Public review for construction sites five acres or more.

- Projects that disturb five acres or more of land will be subject to public review. Beginning on June 1, 2006, permit applications and Erosion and Sediment Control Plans for these projects will be subject to a 14-day public review and comment period. (Applications for projects affecting fewer than five acres are not subject to public review.)
- For projects that affect five acres or more, each application and plan will be posted on DEQ's Web site for public access and review. The public will have 14 days to submit comments to DEQ about the application and plan.
- After the public comment period, DEQ will review the comments and determine if the Erosion and Sediment Control Plan is adequate. DEQ may request you to change the plan based on public comment.
- After approving the Erosion and Sediment Control Plan, DEQ or its agent will assign you coverage under the 1200-C permit, and will notify all who commented.

3. Effective October 1, 2006: TMDL - or 303(d) - listed streams.

- If you discharge stormwater directly to, or into a storm sewer system that discharges to, a water body listed as "impaired" for turbidity (water clarity) or sedimentation on the state's 303(d) list, or to a water body covered under state Total Maximum Daily Load (TMDL) pollution limits, you must:
 - (1) Collect stormwater runoff samples, analyze them for turbidity, and compare results to a numeric turbidity benchmark, or
 - (2) Implement one or more specified Best Management Practices to treat, control, or prevent sediment discharges to "impaired" water bodies. A map and table identifying "impaired" water bodies and affected river miles is available on [DEQ's Web site](#).

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ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.2.2 401 Water Quality Certification

Agency:



Northwest Region Office

2020 SW 4th Ave.
Portland, OR 97201

Phone: (503) 229-6030

Fax: (503) 229-6957

Web site: <http://www.deq.state.or.us/wq/>

Description:



A [401 Water Quality Certification](#) (WQC) is required as a component of any federal action that has the potential to result in a discharge to waters of the state. In Oregon, these federal actions are typically Federal Energy Regulatory Commission (FERC) hydropower projects, U.S. Coast Guard (USCG) projects, or U.S. Army Corps of Engineers (USACE) [Section 404 permits](#) which authorize activities altering waters of the U.S., and which may also require state [Removal/Fill permits](#) issued by the Department of State Lands (DSL).

The intent of the 401 WQC is to provide reasonable assurance that permitted activities will not violate state water quality standards, as approved by U.S. Environmental Protection Agency (EPA), and therefore will not impair water quality or beneficial uses of waters of the state (including wetlands).

Jurisdictional limits:

Waters of the United States, such as the Pacific Ocean, tidal waters, lakes, rivers, streams, or wetlands that require a [U.S. Army Corps of Engineers \(USACE\) permit](#).

Statutes/rules:

Rules and standards:

[ORS 468](#) et seq.

[OAR 340-041-0001](#) et seq.

[Federal Clean Water Act Section 401](#)

Permits and fees

[ORS 468.065](#) et seq.

[OAR 340-048-005](#) et seq.

Activities typically requiring this certificate:

[Stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland/stream restoration, maintenance dredging, water diversions; utility lines and outfalls, dams and impoundments.

Application requirements:

For hydroelectric projects, a 401 WQC application must be submitted. Information is available online at [DEQ's web site](#).

For removal/fill projects, the complete [Joint Permit Application Form](#) must be submitted to both USACE and DSL.

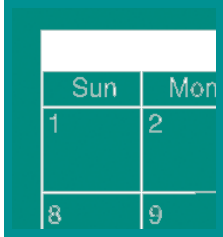
State Agency acronyms:

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SHPO State Historic Preservation Office
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DEQ will receive all application materials submitted from USACE when USACE requests 401 WQC during the Public Notice period. Important components that must be included when applicable for review and evaluation of the project for 401 WQC include but are not limited to: Post-Construction Stormwater Management Plans (see “Special considerations” discussion for more information on this); Restoration Plans (for temporary impacts not requiring mitigation); Mitigation Plans (for permanently impacted wetlands and streams); and In-Stream Work Area Isolation Plans. An application will not be considered complete without submission of the applicable plans and any additional information requested by DEQ. Review of the proposal for certification will be put on hold until the required and requested information is received.

Time frame:



The Clean Water Act mandates that DEQ must act on a request for certification within one year. Requests for additional information, discovery of new information, or coordination with other agencies within the review process may extend the decision time frame. The possible outcomes of review are:

- Certification
- Certification with conditions
- Denial of certification

Application fees:

Some activities are fee exempt, others have special fee schedules. Please consult the table in [OAR 340-048-0055](#).

Standards of review/ approval:

DEQ will review and evaluate a project requiring a 401 WQC and develop appropriate conditions to ensure consistency with state water quality standards that include beneficial uses and criteria and all water quality programs and policies. Water quality standards include: Antidegradation, Narrative Criteria, Bacteria, Biocriteria, Dissolved Oxygen, Nuisance Phytoplankton Growth, pH, Temperature, Total Dissolved Gas, Total Dissolved Solids, Toxic Substances, Turbidity, Water Quality Limited Waters, Mixing Zones, Implementation at Wastewater Treatment Works, Other Implementation of Water Quality Criteria, and Basin-Specific Criteria. [OAR 340-041-0001](#) et seq.

Water quality program and policy-based conditions include: load allocations in approved Total Maximum Daily Loads (TMDLs) for water quality limited water bodies; subsequent TMDL implementation plans; specific management measures in Oregon’s Coastal Nonpoint Source Program; sediment contamination, solid waste, and related clean-up issues; and others.

Duration of certification:

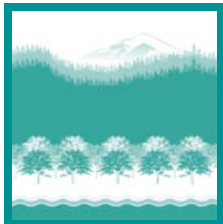
Typically one to five years and occasionally up to 10 years.

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SHPO State Historic Preservation Office
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Other agencies' programs commonly associated with this certificate:



- [Removal/Fill Permit](#) – DSL
- [1200-C Stormwater Permit](#) (for construction sites larger than one acre) – DEQ
- [In-water timing guidelines](#)-ODFW
- [Fish passage requirement](#) - ODFW
- [Habitat mitigation recommendation](#) – ODFW
- [Archeological review](#) – OPRD
- [Water Use Permit](#)-OWRD
- [Coastal Zone Management Act Consistency Certification](#) (for projects located within the [Coastal Zone](#)) – DLCDC

Special considerations:

For projects that entail the creation of new or associated impervious surfaces, DEQ will require the project proponent to submit a Post-construction Storm Water Management Plan. DEQ has developed [Storm Water Management Plan Submission Guidelines](#) to assist you in developing this document. [DEQ staff](#) are also available to assist you with this requirement.

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WRD Oregon Water Resources Department

Section 2.3 Oregon Department of Fish and Wildlife

2.3.1 Fish Passage Requirement

Agency:



Oregon Department of Fish and Wildlife (ODFW)

Oregon Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, OR 97303

Phone: (503) 947-6000

Fax: (503) 947-6202

Web site: <http://www.dfw.state.or.us/fish/passage/>

Description:



The owner or operator of an artificial obstruction located in waters in which native migratory fish are currently or were historically present must address fish passage requirements *prior to* certain trigger events.

Artificial obstructions include dams, diversions, roads, culverts, tide gates, dikes, levees, berms, or any other human-made device placed in the waters of this state that precludes or prevents the migration of native migratory fish.

Native migratory fish include native salmon, trout, lamprey, sturgeon, and suckers, as well as a few other species. It is ODFW's responsibility to determine the current or historical presence of native migratory fish at the site, although if an owner or operator assumes their presence then they may proceed with the fish passage process without obtaining this specific documentation, which may take some time, from ODFW.

Addressing fish passage entails the owner or operator doing one of the following:

- 1) Obtaining approval from ODFW of a passage plan for the artificial obstruction
- 2) Obtaining programmatic approval from ODFW for multiple artificial obstructions of the same type
- 3) For road-stream crossing structures on non-federal forestlands, installing and maintaining a crossing in compliance with the Oregon Department of Forestry's rules and guidelines,
- 4) Obtaining a waiver from providing passage from ODFW or the Oregon Fish and Wildlife Commission (OFWC),
- 5) Obtaining an exemption from providing passage from ODFW or OFWC, or
- 6) Obtaining a deferral from ODFW if there is an imminent or immediate threat to human safety.

Trigger events include installation, major replacement, a fundamental change in permit status (e.g., a new water use permit or a renewed hydroelectric license), or abandonment of an artificial obstruction.

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SHPO	State Historic Preservation Office
WRD	Oregon Water Resources Department

Jurisdictional limits:

Fish passage must be addressed in waters of the state in which native migratory fish are or were present. Waters of the state are determined by the following:

Tidal bays, estuaries, and other tidal waters: To the [highest measured tide elevation](#).

Freshwater rivers, streams, lakes, ponds: To the [ordinary high water lines or bankfull elevation](#).

Floodplains and wetlands: To the [delineated wetland boundary or 100-year floodplain boundary](#).

Statute/rule:

[ORS 509.580 through 910](#)
[OAR 635-412-0005 through 0040](#)

Activities typically requiring this permit:



- Original construction of an artificial obstruction.
- Major replacement, excavation, repair, or modification of an artificial obstruction.
- Additions to or extension of an artificial obstruction.
- A fundamental change in permit status for an artificial obstruction, which includes but is not limited to licensing, re-licensing, re-authorization or the granting of hydroelectric licenses or water rights, but does not include water right transfers or routine maintenance permits unless they involve construction or abandonment of an artificial obstruction.
- Abandonment of an artificial obstruction.
- Bridges and culverts, water diversions, dams and impoundments

Thresholds of actions constituting a "trigger" of fish passage laws vary for different types of artificial obstructions. Contact ODFW or visit the [Web site](#) for further guidance.

Application requirements:

The OFWC passed new rules for fish passage in January 2006. In response to these rules and their implementation, application requirements for ODFW may change in the future. More information may be found on the [ODFW Web site](#). Current application requirements are as follows:

Passage Plan: There is no specific application for these approvals to date. Submissions should include all information necessary to show that ODFW fish passage criteria ([OAR 635-412-0035](#)) and/or guidance will be met. A monitoring and reporting plan may be required for certain sites. An operation and maintenance plan should be submitted. Guidance on applications for specific types of fish passage structures, examples of passage plans, and possibly structure-specific applications will be developed and made available on the ODFW Web site in the future. Also note that passage plan approval may be obtained from ODFW within the DSL [Removal-Fill permitting](#) process if adequate information is provided in DSL's Joint Permit Application Form, a state Removal-Fill permit is required, and ODFW receives a copy for review.

Programmatic Approval: At this point, programmatic approval requirements will be worked out with each entity that applies for approval, but will include meeting ODFW criteria, demonstrating experience providing fish passage, reporting on activities, allowances for inspection, and agreement to remedy inadequate fish passage structures.

Passage at Road-Stream Crossings on Non-Federal Forestland: As long as Oregon Department of Forestry rules and guidelines are followed, no application or approval from ODFW is required.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
DLCD Oregon Department of Land Conservation and Development
DOGAMI Oregon Department of Geology and Mineral Industries
DSL Oregon Department of State Lands
ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Waivers and Exemptions: One application is used for either a waiver or an exemption. This application is available on [ODFW's Web site](#). If mitigation is involved, it is best to contact the local ODFW district biologist for guidance in selecting adequate mitigation prior to completing and submitting the application. A streamlined application for exemptions may be developed in the future. Waivers require mitigation and some exemptions may also involve prior mitigation. To grant a waiver or exemption involving mitigation, both the owner/operator and ODFW must sign an official agreement. This agreement is worked out in draft form between ODFW and the owner/operator after the application is submitted and before a decision is made on the application. Monitoring and reporting are typically part of the agreement.

Deferral: To obtain a deferral, a description of the situation, justification that there is an imminent or immediate threat to human safety, justification that it must be addressed before being able to complete any of the other options for addressing fish passage, and a desired time frame for addressing fish passage must be conveyed to an ODFW fish biologist for approval. Ideally, ODFW responses should be documented in writing or electronically.

Time frame:

	Sun	Mon
1		2
8		9

Passage Plan: There is no required time frame for approval of passage plans. The time frame will depend upon the completeness and adequacy of the submitted information in showing that ODFW criteria will be met. Passage plan approval may be obtained from ODFW within the DSL [Removal-Fill permitting](#) process's time frame if adequate information is provided in DSL's Joint Permit Application Form, a state Removal-Fill permit is required, and ODFW receives a copy for review. Applicants should plan on approximately one month for ODFW approval.

Programmatic Approval: There is no established or required time frame for granting programmatic approvals. This process will likely take about six months.

Passage at Road-Stream Crossings on Non-Federal Forestland: As long as ODF rules and guidelines are followed, no application or approval from ODFW is required.

Waivers and Exemptions: There is no required time frame for approval of waivers or exemptions. Once a complete waiver or exemption application is submitted, it typically takes two months to finish the process. However, depending on the complexity of the situation, ODFW involvement in the development of the application, ODFW workload, and whether OFWC approval is required, this may take up to three or more months. During this period, a three-week public comment period is required.

Deferral: ODFW may issue deferral orally or in writing as soon as the applicant defines sufficient information described under "Application requirements." Ideally, ODFW responses should be documented in writing or electronically.

Application fees: None

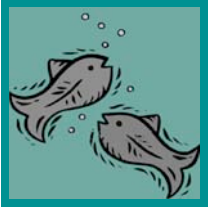
Standards of review/ approval:

Passage Plan: ODFW fish passage criteria ([OAR 635-412-0035](#)) and/or guidance must be met. However, note that *exceptions* (different than [Exemptions](#)) from individual, specific criteria may be provided in writing or electronically on a site-by-site basis by the ODFW fish passage coordinator if the criteria are not essential for providing fish passage at that

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specific site. Further guidance should be available on the ODFW Web site in the future. Programmatic Approval: Programmatic approval requirements are worked out with each entity that applies for approval and include meeting ODFW criteria, demonstrating experience providing fish passage, reporting on activities, allowances for inspection, and agreement to remedy inadequate fish passage structures. A tour of previously installed fish passage structures will be required to demonstrate experience providing fish passage.

Passage at Road-Stream Crossings on Non-Federal Forestland: As long as ODF rules and guidelines are followed, no application or approval from ODFW is required.

Waivers: Waivers should be sought if providing passage at the artificial obstruction would currently provide a benefit to native migratory fish. Fish passage waivers allow an artificial obstruction to not provide fish passage if mitigation is provided. Mitigation must provide a net benefit to native migratory fish over providing passage at the artificial obstruction in question. ODFW will do an analysis to determine whether this is the case. Although the net benefit ultimately comes down to an increase in fish numbers, the measure is typically made in terms of the quality and quantity of habitat involved at the waiver site and the mitigation site(s).

Exemptions: Fish passage exemptions are different than a waiver and can be granted for three reasons: 1) a lack of fish passage has already been mitigated, 2) a legal waiver has already been granted, or 3) there is currently no appreciable benefit to native migratory fish by providing passage. Exemptions based upon pre-existing mitigation and waivers should be well-documented for the site in question and should have had ODFW involvement in approval. Mitigation is not necessary for exemptions based on "no appreciable benefit." Exemptions for "no appreciable benefit" typically involve either highly degraded habitat and/or very short distances (typically less than several hundred feet).

Deferral: To obtain a deferral, a description of the situation, justification that there is an imminent or immediate threat to human safety, justification that it must be addressed before being able to complete any of the other options for addressing fish passage, and a desired time frame for addressing fish passage must be conveyed to an ODFW fish biologist.

Permit duration:

Passage Plan: If fish passage is installed and maintained as approved, approved passage plans are valid until the next trigger event at the artificial obstruction, which may be indefinitely. At the next trigger event, existing passage will be reviewed for sufficiency in meeting the most current passage criteria and may or may not require modification.

Programmatic Approval: The duration of programmatic approvals will be worked out with individual entities.

Passage at Road-Stream Crossings on Non-Federal Forestland: If fish passage is maintained at the existing crossing and all replacement crossings at the site as per ODF rules and guidelines, this option is available indefinitely.

Waivers: If all provisions of the waiver agreement are met, waivers are valid until the next trigger event at the artificial obstruction, which may be indefinitely. At the next trigger event, existing mitigation will be reviewed for sufficiency in meeting the most current mitigation criteria and may or may not require modification.

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Exemptions. Exemptions are reviewed at least every seven years and are revocable. If an exemption is revoked then passage must be provided immediately, independent of a trigger event. Grounds for revocation might include changes in fish access to the site or habitat improvements around the site that create a situation in which passage at the site would now provide an appreciable benefit to native migratory fish.

Deferral. Deferrals are only valid for the approved time frame for addressing fish passage.

Other agencies' programs commonly associated with this permit or review:

Complying with ODFW's fish passage requirements is likely not the only regulatory approval needed to perform many actions at or in relation to an artificial obstruction. Oregon Department of State Lands, Oregon Water Resources Department, U.S. Army Corps of Engineers, National Marine Fisheries Service, U.S. Fish and Wildlife Service, other ODFW sections (e.g., habitat and fish salvage), or other local, state, or federal agencies may also have permits or requirements.

Other commonly required state reviews or approvals with separate requirements include:

- [In-water timing guidelines](#)-ODFW
- [Habitat mitigation recommendation](#)-ODFW
- [Scientific Take Permit](#)-ODFW
- [Fish Screening Requirements](#)-ODFW
- [Removal-Fill Permit](#)-DSL
- [Water Use Permit](#)-OWRD
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) - DEQ

Special considerations:



- The OFWC passed new rules for fish passage in January 2006. In response to these rules and their implementation, fish passage requirements have changed. ODFW is currently in the process of revising guidance material. Information will be made available on the ODFW Web site as staff develops or modifies it.
- Approval occurs at several different levels within ODFW. ODFW fish biologists may approve [Passage Plans](#) for **Stream Simulation** road-stream crossings, water control structures such as tide gates, wetland restoration actions, and artificial obstruction removal. [Passage Plans](#) for **non-Stream Simulation** crossings and fish ladders, **exceptions** to criteria, and [Programmatic Approvals](#) must be approved by the ODFW fish passage coordinator. [Waivers](#) and [Exemptions](#) must be approved by either the ODFW fish passage coordinator (primarily if there is a total of less than or equal to 1 mile of affected stream) or the OFWC.
- Fish passage mitigation is typically separate from habitat mitigation. Habitat mitigation results from on-the-ground actions that impact habitat. Fish passage mitigation deals with situations after those actions occur when passage is not provided at an artificial obstruction. For example, if a new culvert was placed in a stream that has spawning habitat, mitigation may be recommended by ODFW for the lost spawning habitat where the culvert now occurs. If, in addition, the culvert were not passable, then mitigation would be required by ODFW for the inaccessible habitat upstream of the culvert. ODFW makes recommendations regarding habitat mitigation and has authority over fish passage mitigation.

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WRD Oregon Water Resources Department

2.3.2 In-water Timing Guidelines

Agency:



Oregon Department of Fish and Wildlife (ODFW)

Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, OR 97303

Phone: (503) 947-6000

Fax: (503) 947-6070

Web site: <http://www.dfw.state.or.us/>

Click [here](#) for staff directory.

Description:

ODFW, under its authority to manage Oregon's fish and wildlife resources, developed the [Oregon Guidelines for Timing of In-water Work](#) to assist the public in minimizing potential impacts to important fish, wildlife, and habitat resources. The guidelines are based on ODFW district fish biologists' recommendations. Primary considerations are given to important fish species including anadromous and other game fish and threatened, endangered, or sensitive species. Time periods are established for in-water work to avoid the vulnerable life stages of these fish including migration, spawning, and rearing.

The guidelines provide the public a way of planning in-water work during periods of time that would have the least impact on important fish, wildlife, and habitat resources. ODFW uses the guidelines as a basis for commenting on other agencies' planning and permitting processes. Other state and federal agencies typically incorporate the timing guidelines as conditions of their permits for work in water. The guidelines are not a requirement of law until or unless they are incorporated into a permit or authorization. There are some circumstances where it may be appropriate to perform in-water work outside of the preferred work period indicated on the guidelines. ODFW, on a project-by-project basis, may consider variations in climate, location, and category of work that would allow more specific in-water work timing recommendations. The appropriate [ODFW district office](#) will make these more specific timing recommendations through the applicable planning or permitting process.

Jurisdictional limits:

ODFW in-water timing guidelines are typically applied to activities that are proposed in streams, rivers, upstream tributaries, and associated reservoirs and lakes. The timing guidelines are not typically applied in ocean waters or wetlands.

Statute/rule:

[ORS 496.012](#) et seq.

[ORS 506.109](#) et seq.

Activities typically requiring this permit:

[Stream bank stabilization](#), bridges and culverts, in-stream gravel removal, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments.

State Agency acronyms:

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OPRD Oregon Parks and Recreation Department
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WRD Oregon Water Resources Department

Application requirements:	There is no separate application form for in-water timing review. The review occurs as part of other permit processes such as a Removal Fill Permit or In-Water Blasting Permit .
Time frame:	ODFW will make recommendations on timing guidelines during the public comment period for other applicable agencies' permit processes.
Application fees:	There is no fee associated with the in-water timing guideline review.
Standards of review/ approval:	The Oregon Guidelines for Timing of In-Water Work are typically applied through the permit process of other agencies. ODFW recommends the application of the guidelines as they are published on the ODFW Web site unless there is new information available. In reviewing any proposed variances to the timing guidelines, ODFW will consider the sensitivity of the resource that would be affected, the significance of the impact being proposed, and measures to avoid the impacts.
Permit duration:	In-water work period recommendations are typically incorporated into other applicable agencies' permits. Timing guideline recommendations do not have any particular duration.
Other agencies' programs commonly associated with this permit or review:	<p>In-water timing recommendations typically occur as part of the processing of the following other state agency actions:</p> <ul style="list-style-type: none"> • Removal-Fill permit-DSL • Fish passage requirement - ODFW • Fish screening requirements – ODFW • In-Water Blasting Permit – ODFW • Ocean Shore Permit - OPRD • Scenic Waterway Permit – OPRD • Diversion associated with a Water Use Permit– WRD • Water Quality Certification (for projects that require a Section 404 Permit from the U.S. Army Corps of Engineers)- DEQ
Special considerations:	<ul style="list-style-type: none"> • In-water timing guidelines are typically incorporated into permits from the U.S. Army Corps of Engineers in addition to the DSL Removal-Fill Permit. Click here for a link to the Corps' regulatory Web site describing federal permitting requirements. • Variances to in-water timing periods may be requested on a case-by-case basis. Such requests should be identified in your application(s) for in-water work permit(s) being sought (e.g., Removal-Fill Permit). The ODFW staff will then coordinate with applicable agency permitting staff on proposed revisions to permit conditions including changes in the in-water work timing. • If an in-water work period extension is needed for work that has already been permitted and is under way, the request should be made to the agency(ies) whose permit(s) include an in-water work period condition. The permitting agency staff will then coordinate with ODFW on proposed modification of your permit to extend the in-water work period.



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- Any request for extension or variance will be evaluated based on specific conditions of the waterway involved and may be approved or denied based on potential impact to fish. Approval of an extension or variance will be for a specific time frame and may include additional permit conditions to ensure protection of fish and their habitat.

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OPRD Oregon Parks and Recreation Department
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WRD Oregon Water Resources Department

2.3.3 Fish and Wildlife Habitat Mitigation Recommendations

Agency:



Oregon Department of Fish and Wildlife (ODFW)

Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, OR 97303

Phone: (503) 947-6000

Fax: (503) 947-6070

Web site: <http://www.dfw.state.or.us/>

Click [here](#) for staff directory.

Description:

ODFW recommends mitigation for projects where loss of fish and/or wildlife habitat is expected. The purpose of the [Fish and Wildlife Habitat Mitigation Policy](#) is to create consistent goals and standards to offset the impact to fish and wildlife habitat caused by land and water development projects. The policy provides goals and standards for general application to individual development projects.

Jurisdictional limits:

ODFW typically makes mitigation recommendations on land and water development projects that may affect fish and wildlife and their habitat. ODFW makes these recommendations as part of its review of other agencies' permit application processes such as [Removal-Fill Permit](#) and [Water Use Permit](#) applications. [The Fish and Wildlife Habitat Mitigation Policy](#) provides the basis for ODFW's mitigation-related comments on these permit applications.

ODFW also applies the mitigation policy to its own permits such as [In-water Blasting Permits](#). For these approvals, the mitigation policy is mandatory.

Statute/rule:

[ORS 496.012](#) and [ORS 506.109](#) et seq.

[OAR 635-415-0000](#) et seq.

Activities typically requiring this permit:

[Stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments

Application requirements:

There is no separate application form for fish and wildlife habitat mitigation review. The review occurs as part of other permit processes such as a [Removal-Fill Permit](#).

Time frame:

ODFW makes its fish and wildlife habitat mitigation recommendations during the public comment period of other applicable agencies' permit processes.

Application fees: There is no fee associated with fish and wildlife habitat mitigation review.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
DLCD Oregon Department of Land Conservation and Development
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DSL Oregon Department of State Lands
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ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Standards of review/ approval:



The ODFW [Fish and Wildlife Habitat Mitigation Policy](#) identifies six habitat categories. They are listed below from highest to lowest value. The mitigation standard is different for each category.

- Category 1 habitats: Category 1 habitats are the most important and irreplaceable habitats. The mitigation standard is to avoid impact to these habitats altogether.
- Category 2 habitats: For category 2 habitats, the mitigation standard for unavoidable impacts is to provide at least the same quantity and quality of habitat than that impacted. There is also a net benefit required in either habitat quality or quantity. Mitigation must be in-proximity and in-kind.
- Category 3 habitats: For category 3 habitats, the mitigation standard for unavoidable impacts is to provide at least the same amount of habitat quantity and quality as that impacted. Mitigation must be in-proximity and in-kind.
- Category 4 habitats: For category 4 habitats, the mitigation standard for unavoidable impacts is to provide at least the same amount of habitat quantity and quality as that impacted. Mitigation can be in-kind or out-of-kind, in-proximity or off-proximity.
- Category 5 habitats: For category 5 habitats, the mitigation standard if impacts are unavoidable is a net benefit in habitat quantity or quality.
- Category 6 habitats: For category 6 habitats, the mitigation standard is to minimize impact to the habitat on-site and avoid indirect impacts to any habitats off-site.

Permit duration: Fish and wildlife habitat mitigation recommendations are typically incorporated as conditions of other agencies’ permits such as [Removal-Fill Permit](#) and [Water Use Permit](#). Fish and wildlife habitat mitigation recommendations do not have any particular duration on their own.

Other agencies’ programs commonly associated with this permit or review: ODFW typically makes fish and wildlife habitat mitigation recommendations as part of responding to the following types of water-related permits:

- [Removal-Fill Permit](#)-DSL (Many projects in wetlands or waterways will require a [Section 404 permit](#) from the U.S. Army Corps of Engineers in addition to the DSL [Removal-Fill Permit](#).)
- [Water Use Permit](#) - WRD
- [Ocean Shore Permit](#) – OPRD
- [Scenic Waterway Permit](#) -- OPRD
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers)- DEQ

Special considerations:

- ODFW’s fish and wildlife habitat mitigation recommendations are not a requirement of law until or unless they are incorporated into another agency’s permit or other authorization. They are a requirement if the authorization is issued by ODFW.
- [ODFW District office](#) staff members can help you identify what categories of fish and wildlife habitat you may have on your project site and potentially appropriate mitigation actions to offset any unavoidable impacts your project may have on those habitats.

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DSL	Oregon Department of State Lands	SHPO	State Historic Preservation Office
ODA	Oregon Department of Agriculture	WRD	Oregon Water Resources Department

2.3.4 Scientific Take Permit

Agency:



Oregon Department of Fish and Wildlife (ODFW)

Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, OR 97303

Phone: (503) 947-6000

Fax: (503) 947-6070

Web site: <http://www.dfw.state.or.us/>

Click [here](#) for staff directory.

Description:

A Scientific Take Permit (STP) from the Fish Division is required for the taking of freshwater fish, marine fish, marine invertebrates, and shellfish for scientific or educational purposes. "Take" includes activities that kill or obtain possession of fish, shellfish, or marine invertebrates. To qualify for an Oregon STP, a project must have scientific research or educational merit. Additional federal permits or approvals may be required for activities in certain locations or affecting certain species.

Jurisdictional limits:

An STP is required where take occurs in state waters (including coastal waters to 3 miles offshore) and in federal waters (0 to 200 miles offshore).

Statute/rule:

[ORS 497.298](#) et seq.

[ORS 508.111](#) et seq.

[ORS 508.116](#) et seq.

[OAR 635-007-0900](#) et seq.

Activities typically requiring this permit:

Academic research, education (school/college), management/applied research, monitoring, public display (zoo, aquarium), public interpretive programs, and rescue/salvage associated with activities such as: [stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments.

Application requirements:

Applicants must fill out an online application developed in cooperation with NOAA. The Web site <http://fishresearch.nwr.noaa.gov/> may be used throughout the year to apply for Oregon state scientific taking permits issued through the Fish Division. Applicants also are required to submit a report at the end of their project and no later than December 31 of the year the permit is issued.

Time frame:

The application must be submitted four to six weeks prior to the project's start date. Once the application is submitted, the review process begins. Additional consultation with the applicant may be necessary. Once the application is deemed complete and approved, a permit is issued.

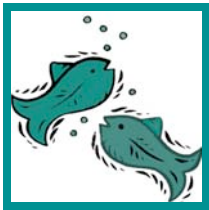
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WRD Oregon Water Resources Department

Application fees: None

Standards of review/ approval:



Projects are evaluated for their scientific or educational merit and effects on the resource. Before submitting the application, the applicant is required to consult with the local ODFW district fish biologist in whose watershed district the research takes place. The district biologist's recommendations are incorporated into the permit.

Special conditions may be placed on a particular permit to ensure that take actions and methods employed during the project implementation preclude or minimize harm to the affected animals. For example, the permit may require the permit holder to:

- Adhere to [NMFS Guidelines for backpack electrofishing \(2000\)](#) when this method is employed.
- Follow FDA-approved protocols and use only FDA-approved substances for anesthetizing fish.
- Coordinate use of marks on all salmonids with the ODFW fin mark coordinator at (503) 657-2000, ext. 307.
- Follow PIT-tagging protocols established by the PIT tag steering committee when this method of marking is used.
- Provide proof of federal authorization when take of Endangered Species Act (ESA)-listed fish is anticipated.

Permit duration: Permits are issued on an annual basis and may be renewed for multi-year projects. Annual reporting is required.

Other agencies' programs commonly associated with this permit or review:

A variety of state and federal agencies and private entities apply for scientific take permits when their programs result in the take of fish. In addition to routine fish surveys and monitoring by public and private land-owning entities, research at academic institutions, teacher-led field exploration, and instream habitat and/or road crossing improvement projects may require a scientific take permit where pre- and post-monitoring is required or where rescue/salvage of fish is required during construction activities.

Special considerations:

Authorization from the appropriate federal agency will be required when take of an ESA-listed species is proposed. For information on obtaining a permit for listed salmon and steelhead, contact NOAA Fisheries <http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/index.cfm>. For information on obtaining a permit for species listed by the U.S. Fish and Wildlife Service, see <http://www.fws.gov/endangered/permits/index.html>.

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SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.3.5 In-Water Blasting Permit

Agency:



Oregon Department of Fish and Wildlife (ODFW)

Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, OR 97303

Phone: (503) 947-6000

Fax: (503) 947-6070

Web site: <http://www.dfw.state.or.us/>

Click [here](#) for staff directory.

Description:

An In-Water Blasting Permit is required whenever explosives are used in the course of removing obstructions in any waters of the state, in constructing foundations for dams, bridges, or other structures, or in carrying on trade or business.

Jurisdictional limits:

A blasting permit is required to use explosives on, under, in, or adjacent to any “waters of the state.” “Waters of the state” include the Pacific Ocean to the limits of the territorial sea and all bays, inlets, lakes, rivers, and streams within or forming the boundaries of this state. Contact your nearest ODFW district office to check if your proposed blasting site is a “water of the state.”

Statute/rule:

[ORS 509.140](#) et seq.

[OAR 635-425-0000](#) et seq.

Activities typically requiring this permit:

Bridges and culverts, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments

Application requirements:

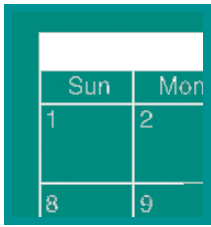
An [application](#) for an in-water blasting permit must be submitted at least 90 days before the anticipated in-water blasting for a “major project” (in-water blasting project that requires multiple detonations or multiple days, or crosses two or more department regions or districts) and at least 30 days before the anticipated in-water blasting for a “minor project” (in-water blasting project that has, in the judgment of the department, minimal effects and requires a single detonation or single-day blasting, and occurs within a single district). ODFW may waive these deadlines in emergency situations where the blasting is necessary to prevent irreparable harm, injury, or damage to persons or property. The application form is submitted to either the district, region, or headquarters office of ODFW depending on the size of the project. Click [here](#) to find the ODFW district office for your area.

The application must include information on the applicant, the type of explosives that would be used, alternatives, if any, to the proposed in-water blasting, information on fish and wildlife habitat and species that would be affected by the proposed blasting, predicted effects of the proposed blasting on these species, and proposed measures for preventing injury to fish, wildlife, and their habitat.

State Agency acronyms:

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WRD Oregon Water Resources Department

Time frame:

Major Project: Typical time frame is up to 60 days. This includes an up to 15-day period for the ODFW staff to review your application and ensure it is complete. Within 45 days of receiving a complete application for a major project, ODFW will either issue a permit with appropriate conditions or deny the application in writing. The department may extend its review period for up to 30 days to determine appropriate conditions to prevent injury to fish and wildlife and their habitat.

Minor Project: Typical time frame is up to 35 days. This includes an up to 15-day period for the ODFW staff to review your application and ensure it is complete. Within 20 days of receiving a complete application for a minor project, ODFW will either issue a permit with appropriate conditions or deny the application in writing.

Emergency Authorization: ODFW may waive these deadlines in emergency situations where the blasting is necessary to prevent irreparable harm, injury, or damage to persons or property.

Application fees: There are no fees for in-water blasting permits.

Standards of review/ approval:

In deciding whether to approve or deny the blasting application, ODFW will consider:

- Whether blasting is the only practicable method of accomplishing the proposed activity;
- Whether injury to fish, wildlife, and their habitat can be prevented by adequately conditioning the permit; and
- Whether proposed blasting for fish passage improvement projects is consistent with the Commission’s [Native Fish Conservation Policy](#).

For further details, please see [OAR 635-425-0000](#).

Permit duration:

All activities initiated under an in-water blasting permit must be completed within the time period specified in the permit. Typically, this is the ODFW-defined [In-water Work Period](#). ODFW may extend the time period specified in the permit if the permit holder provides a written request stating a valid reason for such an extension. Any extension must be in writing and may include additional conditions to prevent injury to fish, wildlife, and their habitats.

Other agencies’ programs commonly associated with this permit or review:

The following other state agency approvals or actions are often associated with projects that require a blasting permit:

- [In-water timing guidelines](#)-ODFW
- [Fish passage requirement](#) - ODFW
- [Removal-Fill permit](#) - DSL (Many projects in wetlands or waterways will require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers in addition to the [DSL Removal-Fill Permit](#).)
- [Coastal Zone Management Act Consistency Certification](#) (for projects located within the [Coastal Zone](#)) - DLCDC
- [Proprietary authorization](#) (e.g., lease or easement if project is in a state-owned waterway)-DSL

State Agency acronyms:

DEQ	Oregon Department of Environmental Quality	ODF	Oregon Department of Forestry
DLCDC	Oregon Department of Land Conservation and Development	ODFW	Oregon Department of Fish and Wildlife
DOGAMI	Oregon Department of Geology and Mineral Industries	OPRD	Oregon Parks and Recreation Department
DSL	Oregon Department of State Lands	SHPO	State Historic Preservation Office
ODA	Oregon Department of Agriculture	WRD	Oregon Water Resources Department

- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) - DEQ

Special considerations:



- Applicants must notify the ODFW district fishery or habitat biologist at least 48 hours before blasting.
- Applicants must notify the local law enforcement agencies at least three days before blasting activities.
- Applicants must notify all adjacent landowners of record on the most recent property tax assessment roll, renters or lessees, and recreational users within the area affected by the proposed blasting of the schedule for planned in-water blasting.
- ODFW may conduct a pre-blasting site inspection.
- ODFW may place special restrictions on blasting permits that may adversely affect special aquatic sites, threatened, or endangered species.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
DLCD Oregon Department of Land Conservation and Development
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ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.3.6 Fish Screening or Bypass Requirement

Agency:



Oregon Department of Fish and Wildlife (ODFW)

Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, OR 97303

Phone: (503) 947-6000

Fax: (503) 947-6070

Web site: <http://www.dfw.state.or.us/>

Click [here](#) for staff directory.

Description:

Fish screening or bypass devices prevent the loss of game fish, food fish, or fish that are Endangered Species Act (ESA)-listed as sensitive, threatened, or endangered species by the Oregon Fish and Wildlife Commission or the U.S. government. A fish screen is a screen, bar, rack, or other barrier, including related improvements necessary to ensure its effective operation and to provide adequate protection for fish populations present at a water diversion. A bypass is a pipe, flume, open channel, or other means of conveyance that transports fish back to the body of water from which the fish were diverted, but does not include fishways or other passages around a dam.

Fish screens or bypass devices are necessary at gravity and pumped water diversions. Fish screening or bypass devices are often required as a condition for a [Water Use Permit](#) or transfer.

At water diversions greater than 30 cubic feet per second (13,470 gallons per minute), fish screening and bypass devices are mandatory [[ORS 498.311](#) and [ORS 509.615](#)]. Installation and maintenance of these devices are entirely the responsibility of the water user.

At water diversions less than 30 cubic feet per second (cfs), fish screening or bypass devices may be required when:

- State or federal ESA-listed fish are present.
- Fewer than 75 persons per year volunteer to request installation at their diversions.
- The Fish Screening Task Force has reviewed and approved ODFW's request to require installation to complete the screening of a stream system or stream reach.

Day-to-day or minor maintenance of these devices is the responsibility of the water user. Minor maintenance means periodic inspection, cleaning, and servicing of fish screening or bypass devices at such times and in such manner as to ensure proper operation. Major maintenance is the responsibility of the Department of Fish and Wildlife (ODFW) [[ORS 498.306](#)]. Major maintenance includes all maintenance work done on fish screening or bypass devices other than minor maintenance.

Fish screening plans must be approved by ODFW prior to construction and installation of the fish screening or bypass devices.

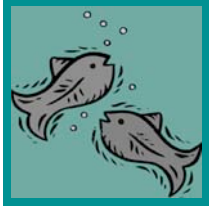
State Agency acronyms:

DEQ Oregon Department of Environmental Quality
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SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Exemption: Fish screening or bypass devices are not required in water diversions for which the Oregon Fish and Wildlife Commission has a contract or other form of agreement with the person diverting water when that person has made such other provision deemed adequate for the protection of game fish ([ORS 498.316](#)).

Jurisdictional limits:



Fish screening must be addressed in waters of the state in which ESA-listed food or game fish are present. Screening can be provided at the water diversion point in a natural waterway or within a man-made waterway such as an irrigation ditch or canal. Waters of the state are determined by the following:

Tidal bays, estuaries, and other tidal waters: To the [highest measured tide](#) elevation.

Freshwater rivers, streams, lakes, ponds: To the [ordinary high water lines or bankfull elevation](#).

Floodplains and wetlands: To the [delineated wetland boundary or 100-year floodplain boundary](#).

Statute/rule:

[ORS 315.138](#)

[ORS 498.301 through .346](#)

[ORS 509.615, 509.910, and 540.525](#)

Activities typically requiring this permit:

- Existing or planned gravity or pumped water diversion greater than 30 cfs.
- New [Water Use Permit](#) or transfer of point of diversion.
- State or federal ESA-listed fish are present at diversion.
- Other water diversions, dams and impoundments

Application requirements:

When a fish screen or bypass is required, the diversion owner must contact ODFW prior to design of the project. ODFW will work with the diversion owner to ensure that the project plans meet ODFW fish screening and bypass criteria. There is no application required in this instance.

An application is required only when the diversion owner applies for state cost sharing funds and/or state tax credits, which are available for many fish screening and bypass projects. The cost share is 60 percent of the total project cost up to \$75,000 per project. The tax credit is 50 percent of the total project cost not to exceed \$5,000. The cost share and tax credit may both be used for each project pending eligibility.

The application form for cost share and tax credits is found on the ODFW Web site: http://www.dfw.state.or.us/ODFWhtml/InfoCntrFish/screen_passage_grants.htm. Project plans and a cost estimate must be provided in the application.

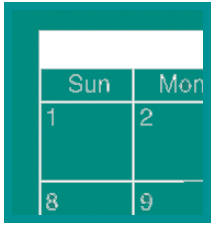
When the diversion owner will install the fish screen or bypass, and wants a tax credit, ODFW has 90 days to approve or deny the plans, or else the plans are considered approved [[315.138\(8\)\(c\)](#)].

ODFW, the diversion owner, or private contractors may design, construct, and install the fish screen or bypass device.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
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SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Time frame:

Project Plan: Generally, there is no required time frame for approval of fish screening or bypass plans. However, there is one exception. When the diversion owner will install the fish screen or bypass, and wants a tax credit, ODFW has 90 days to approve or deny the plans, or else the plans are considered approved [[315.138\(8\)\(c\)](#)].

Application: Generally, there is no required time frame for approval. Time frames are occasionally established for applications depending on the cost-share funding source, which may be state or federal. The application process usually includes a grant agreement between the diversion owner and ODFW; the time involved from application receipt by ODFW to grant agreement approval can take 60 days. Cost share funds cannot be used until after the grant agreement is approved.

Exemptions: There is no required time frame for approval of exemptions.

Application fees: None

Standards of review/ approval:

Project Plan: ODFW fish screening and bypass criteria must be met. ODFW generally uses NOAA Fisheries (National Marine Fisheries Service) fish screening and bypass criteria: www.nwr.noaa.gov/Publications/Guidance-Documents/Passage-Guidance.cfm

Exceptions to certain ODFW criteria, which are rare, may be requested in writing or electronically. The ODFW fish screening state coordinator will examine each request on a site-by-site basis to determine if certain criteria are not essential to protect fish at the specific site.

Project Costs: All project costs will be reviewed to ensure that they follow standards established by ODFW for appropriate project expenditures.

Site Inspection: Each project site will be inspected by an ODFW field coordinator (or designated representative) prior to submission of an application. After project installation, an ODFW field coordinator (or designated representative) will provide a final inspection.

Permit duration: **Fish Screen or Bypass:** Indefinite as long as the project was installed and is maintained as approved. ODFW may recover some costs from the diversion owner if owner-required maintenance is inadequate.

Exemptions: Indefinite unless otherwise indicated in the contract or agreement between the Oregon Fish and Wildlife Commission and the person who diverts water.

Other agencies' programs commonly associated with this permit or review:

Complying with ODFW's fish screening requirements is likely not the only regulatory approval needed to perform many actions at or in relation to a fish screening or bypass project. The U.S. Army Corps of Engineers, National Marine Fisheries Service, U.S. Fish and Wildlife Service, Oregon Department of State Lands (DSL), Oregon Water Resources Department (OWRD), and other ODFW sections (e.g., habitat and fish salvage), or other local, state, or federal agencies may also have permits or requirements.

Other commonly required state reviews or approvals with separate requirements include:

- [In-water timing guidelines](#)-ODFW
- [Habitat mitigation recommendation](#)-ODFW

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- [Scientific Take Permit](#)-ODFW
- [Removal-Fill Permit](#)-DSL
- [Water Use Permit](#)-OWRD

Special considerations: None.

State Agency acronyms:

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ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Section 2.4 Oregon Parks and Recreation Department

2.4.1 Ocean Shore Permit

Agency:

Oregon Parks and Recreation Department (OPRD)



Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301

Phone: (503) 986-0707
Fax: (503) 986-0792

Web site: <http://egov.oregon.gov/OPRD/index.shtml>
Click [here](#) for staff e-mail directory.

Description: Under the 1967 Beach Bill, the public has the free and uninterrupted use of the beaches along the Oregon coast. OPRD is charged with the protection and preservation of the recreational, scenic, and natural resource values found on Oregon's ocean shore. Proposed alterations on the ocean shore require an Ocean Shore Permit issued by OPRD.

Jurisdictional limits: The ocean shore lying between [extreme low tide](#) elevation and the [statutory vegetation line or the line of established upland shore vegetation](#), whichever is farther inland. The ocean shore does not include estuaries. At the mouth of estuaries, the inland extent of the ocean shore extends only to that point at which the statutory vegetation line crosses the estuary.

Statute/rule: [ORS 390.640](#) et seq.
[OAR 736-020-0001](#) et seq.

Activities typically requiring this permit: Shoreline protective structures, beach access ways, dune grading, and other sand alterations, pipelines and cable beneath the shore, marine algae collection, and natural products removal. Some other specific examples include: [bank stabilization](#), bridges and culverts, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments.

OPRD waives the ocean shore permitting requirements for those structures and appurtenances or other additions constructed or placed on the ocean shore, or removal or fill activities conducted on the ocean shore, that meet one or more of the following conditions. Contact [OPRD staff](#) for help in determining whether your project requires an Ocean Shore Permit.

- The alteration would have no identifiable construction value;
- The alteration involves the removal or fill of less than 50 cubic yards of material on the ocean shore;
- The alteration is an incident of an individual or group recreational activity;
- The alteration uses materials naturally available on the ocean shore.

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- The alteration consists of returning sand or other natural products to the ocean shore when necessary to clear public access routes, protect buildings from sand or debris inundation, or protect other public or private infrastructure.

Application requirements:



Ocean Shore Permit application materials include the following:

- One-page main application form
- Specific application addendum for one of the six different types of alteration permits offered:
 - Shoreline protection structures
 - Access ways & miscellaneous projects
 - Sand alteration
 - Natural products removal
 - Marine algae collection
 - Pipeline, cable, or conduit
- Property information forms if the project involves more than one tax lot.

Click [here](#) for links to electronic versions of these forms and instructions for their completion.

Time frame:

The applicant or interested persons have 30 days from posting of the notice (of the proposed project) to request a hearing. OPRD must decide on an application within 60 days of receipt of the application or, if a hearing is held, within 45 days after conclusion of the hearing. An applicant or any adversely affected party may seek review of OPRD’s decision by making a request to the OPRD director within 30 days. Upon receipt of the applicant’s request or upon finding that a person with a legally protected interest has been adversely affected by the granting of the permit, the director shall set the matter for hearing within 30 days of receipt of the request. The director issues a final order within 45 days of the hearing’s conclusion.

Application fees:

\$400 for projects with a construction value less than \$2,500
 \$400 plus 3 percent of the construction value over \$2,500 for projects with a construction value equal to or greater than \$2,500.
 Removal of natural products from the ocean shore (other than for personal, non-commercial use) or the use of the shore for pipeline, cable, or conduit crossing may additionally be subject to compensation payment to OPRD. Contact the [OPRD staff](#) for more information.

Standards of review/ approval:

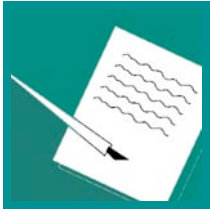
OPRD uses the following considerations and standards when evaluating an ocean shore project for approval:

Considerations

- Provisions necessary to protect the affected area from any use, activity, or practice that is not in keeping with the conservation of natural resources or public recreation.
- The public need for healthful, safe, aesthetic surroundings and conditions; the natural, scenic, recreational, economic, and other resources of the area and the present and

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DSL	Oregon Department of State Lands	SHPO	State Historic Preservation Office
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prospective need for conservation and development of those resources.

- The physical characteristics or the changes in the physical characteristics of the area, and the suitability of the area for particular uses and improvements.
- The land uses, including public recreational use; the improvements in the area; the trends in land uses and improvements; the density of development; and the need for access to particular sites in the area.
- The need for recreation and other facilities and enterprises in the future development of the area and the need for access to particular sites in the area.
- Public opinion in response to public notice or hearings on the application.

General Standards

- There must be adequate justification for the project to occur on and alter the ocean shore area.
- Public ownership of or use easement rights on the ocean shore must be adequately protected.
- The applicant must comply with federal, state, and local laws and regulations affecting the project.
- There are no reasonable alternatives to the proposed activity or project modifications that would better protect the public rights, reduce or eliminate the detrimental affects on the ocean shore, or avoid long-term cost to the public.
- There are no reasonable special measures that might reduce or eliminate significant public costs.
- The project complies with applicable state land-use planning goals and is consistent with state-acknowledged local Comprehensive Plan.
- In addition, OPRD applies the following specific standards as applicable:
 - [Scenic standards \(OAR 736-020-0015\)](#)
 - [Recreation use standards \(OAR 736-020-0020\)](#)
 - [Safety standards \(OAR 736-020-0025\)](#)
 - [Natural and cultural resource standards \(OAR 736-020-0030\)](#)

Permit duration: The duration of any permit is solely within the discretion of the department. Normally, Ocean Shore Alteration Permits are conditioned so that project construction is completed within one year from the date of issuance of a permit.

Other agencies’ programs commonly associated with this permit or review: The following other state agency actions typically occur as part of Ocean Shore Permit processing:

- [In-water timing guidelines](#)-ODFW
- [Habitat mitigation recommendation](#) – ODFW
- [Archeological review](#) – OPRD
- [Coastal Zone Management Act Consistency Certification](#) - DLCDD

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
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ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Other commonly required state approvals with separate application requirements include:

- [1200-C Stormwater Permit](#)– (for construction sites larger than one acre) - DEQ
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) – DEQ

Special considerations:



- A separate Removal-Fill Permit from DSL is not required for projects on the ocean shore.
- A public hearing may be conducted on your ocean shore permit application if 10 or more persons submit written request for such or otherwise at the discretion of the OPRD director.
- OPRD may require an applicant to obtain liability insurance for damage or injury arising from the project. OPRD may require a cash bond or other security acceptable to ensure that a permittee complies with the terms of the permit including removal of material.
- An expedited Emergency Permit may be issued orally or in writing by OPRD in cases where property (upland building or infrastructure improvement) is in imminent peril of being damaged or destroyed by waters.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
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ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.4.2 State Scenic Waterway Notification

Agency:

Oregon Parks and Recreation Department (OPRD)



Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301

Phone: (503) 986-0707

Fax: (503) 986-0792

Web site: <http://egov.oregon.gov/OPRD/index.shtml>

Click [here](#) for staff e-mail directory.

Description:

OPRD must be notified of certain activities (new roads, new or replacement buildings, land clearing or logging, or other alterations) proposed within ¼ mile of the bank of Oregon's designated scenic waterways. Proposed uses or activities within this zone may not be started until either the written notification is approved by OPRD, or until one year after OPRD receives the notice.

For activities in scenic waterways that involve removal or fill below ordinary high water, a [Removal-Fill Permit](#) from the Department of State Lands may be required. DSL solicits input from OPRD as part of the permit process so that the requirements of the Scenic Waterway Act are met. As such, a special dual "Scenic Waterway Removal-Fill Permit" is issued by DSL as part of the permit process and a separate notification to OPRD is not necessary.

The Scenic Waterways Act outright prohibits dams, reservoirs, or impoundments.

Jurisdictional limits:

All land and tributaries within ¼ mile of the bank of Oregon's designated scenic waterways. Click [here](#) for a map of Oregon's state scenic waterways

Statute/rule:

[ORS 390.805 to 390.925](#) et seq.

[OAR 736-040](#)

[OAR 141-100](#) (For removal-fill activities in state scenic waterways)

Activities typically requiring this permit:

Cutting of trees; mining; construction of roads, railroads, utilities, buildings, or other structures.

Other examples include: [stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments

Application requirements:

A **Notification of Intent** form must be filled out for activities. The form asks for information including structure height, exterior colors, distance of the project from the river, and existing and proposed vegetative cover. Click [here](#) for a copy of the Notice of Intent form.

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
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If your project includes timber harvest (other than hazard tree removal or personal firewood cutting), you must additionally prepare and submit a **Timber Harvest** form. Click [here](#) for a copy of the Timber Harvest form.

If your project involves removal or fill activities below ordinary high water, a [Removal-Fill Permit](#) from the Department of State Lands will likely be required and the criteria for complying with the State Scenic Waterway regulations will be included in that process.

Time frame: Review of the Notification of Intent form usually takes from six to eight weeks. However, OPRD has up to one year to complete its review.

Application fees: None

Standards of review/ approval: Proposed project plans are reviewed for their effect on the scenic beauty of the waterway as seen from the river. Structure height is limited to 30 feet, using non-reflective surfaces and muted colors. Screening using vegetation or topographical landforms is required. Disturbance during construction must be minimized, and no signs are allowed that can be seen from the river. Click [here](#) to view the State Scenic Waterway Landowner’s Guide including a description of the criteria and standards for approval.

Permit duration: The approval is valid until the project, as proposed, is constructed. Revisions to the proposal usually require resubmittal of the notification form.

Other agencies’ programs commonly associated with this permit or review: The following other state agency actions typically occur as part of State Scenic Waterway Notification process:

- [Removal-fill permit](#) (for projects that involve removal or fill in the scenic waterway below ordinary high water)- DSL
- [In-water timing guidelines](#)-ODFW
- [Fish passage requirement](#) - ODFW
- [Habitat mitigation recommendation](#) – ODFW
- [Archeological review](#) – OPRD
- [Coastal Zone Management Act Consistency Certification](#) (for projects located within the [Coastal Zone](#)) - DLCDD

Other commonly required state approvals with separate application requirements include:

- [Proprietary authorization](#) (e.g., lease or easement if project in the scenic waterway is also a state-owned waterway)-DSL
- [1200-C Stormwater Permit](#)– (for construction sites larger than one acre) - DEQ
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) – DEQ

State Agency acronyms:

DEQ Oregon Department of Environmental Quality
DLCDD Oregon Department of Land Conservation and Development
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DSL Oregon Department of State Lands
ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Special considerations:



If OPRD determines that a project will harm the scenic value of the river, OPRD will request modification of the project. If a compromise cannot be reached regarding the criteria for approval, OPRD may deny the application. If a project is denied, OPRD can elect to initiate proceedings to purchase an easement or fee title to the property within one year of the original date of notification.

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DSL Oregon Department of State Lands
ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.4.3 SHPO Review of Water-Related Permits

Agency:

Oregon Parks & Recreation Dept: Heritage Programs: State
Historic Preservation Office (SHPO)

Heritage Conservation Division

Oregon Parks and Recreation Department

725 Summer St. NE, Suite C

Salem, OR 97301

Phone: (503) 986-0674 (Dr. Dennis Griffin, lead SHPO archaeologist)

Fax: (503) 986-0793

Web site: <http://www.oregon.gov/OPRD/HCD/SHPO/>

Description:

A number of federal and state laws protect Oregon's historic properties, such as archaeological sites, historic structures, and other cultural resources. Any state water-related permit must take into account the effects of the applicant's activities on historic properties. When a state agency permits an activity that may affect cultural resources, the agency must consult with the [State Historic Preservation Office](#) (SHPO).

SHPO Archaeological Services' staff assists state agencies and their applicants in protecting historic properties in Oregon. This consideration process involves a series of steps that include: first, to identify if any historic properties exist within the project area; if so, then second, to evaluate the eligibility of the historic properties and determine the effects the proposed project will have on those properties; and third, if the project will have a negative impact on a significant historic property, the applicant and SHPO will explore alternatives to avoid, minimize, or mitigate the effects.

Jurisdictional limits:

State of Oregon

Statute/rule:

The Native American Graves and Protected Objects State Law ([Indian Graves and Protected Objects \(ORS 97.740-97.760\)](#)) protects all Native American cairns and graves and associated cultural items in Oregon.

The **Archaeological Objects and Sites Law** ([ORS 358.905-358.955](#)) provides definitions of archaeological sites 75 years of age or older, and items of significance and cultural patrimony; prohibits the sale and exchange of cultural items; and prohibits damage to archaeological sites on public and private lands. Archaeological sites, items of cultural patrimony, and artifacts associated with human remains are protected everywhere, unless the activity is authorized by an archaeological excavation permit.

The **Scenic Waterways Law** ([ORS 390.805-390.925](#)) establishes a state policy that protects historic and archaeological sites that are located adjacent to designated scenic waterways (i.e., rivers or lakes) from destruction due to the building of dams, construction, mining, etc., and provides tax incentives to private land owners who agree to restrict their use of such lands.

The **Conservation Easement Law** ([ORS 271.715-271.795](#)) permits agencies to help in protecting lands with special natural or cultural features.

State Agency acronyms:

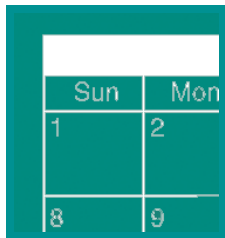
DEQ Oregon Department of Environmental Quality
DLCD Oregon Department of Land Conservation and Development
DOGAMI Oregon Department of Geology and Mineral Industries
DSL Oregon Department of State Lands
ODA Oregon Department of Agriculture

ODF Oregon Department of Forestry
ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Activities typically requiring concurrence: Activities requiring permits from the Department of State Lands and/or the U.S. Army Corps of Engineers including but not limited to: [stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland or stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments

Application requirements: Applicants for any state water-related permits must provide SHPO a USGS topographic map with the project area clearly marked and a letter describing the project activity and any applicable construction plans.

Time frame: SHPO has 30 days to conduct its review of state water-related permits. This period can be extended if the permit does not contain the necessary data and information required for the SHPO staff to complete the permit review.



Application fees: None

Standards of review/ approval:

- Statewide planning goals
- Acknowledged comprehensive plans and land-use regulations of local government
- Requirements of state agencies that are incorporated into the Oregon Coastal Management Program

Permit duration: SHPO concurrence does not expire unless the specific permit is such that a time limit is necessary to meet enforceable policy requirements. In some circumstances, substantial changes to a project’s coastal resource or use effects can trigger the need for an amended or new certification and concurrence.

Other agencies’ programs commonly associated with this permit or review

- [Removal-Fill Permit](#)-DSL
- [Water Use Permit](#)-OWRD
- [Proprietary authorization](#) (e.g., lease or easement if project is in a state-owned waterway)-DSL
- [Ocean Shore Permit](#) – OPRD
- [State Scenic Waterway Notification](#) - OPRD
- [1200-C Stormwater Permit](#)– (for construction sites larger than one acre) – DEQ
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) - DEQ

Special considerations: Each State Historic Preservation Office (SHPO) develops, implements, and periodically revises a statewide comprehensive Historic Preservation Plan. This plan must cover all types of historic and prehistoric cultural resources, and must include input from the widest group of people possible.

State Agency acronyms:

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The primary purpose of historic preservation planning is to ensure that preservation issues are addressed in the most effective ways possible. The ultimate goal is the protection and preservation of valued historic and cultural resources for future generations.

The [Oregon Historic Preservation Plan](#) outlines broad goals and strategies for preservation efforts statewide and describes SHPO's role in those efforts. Local jurisdictions and other preservation partners (government agencies, tribes, nonprofits) are encouraged to integrate elements of the Historic Preservation Plan into their own plans.

State Agency acronyms:

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ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

Section 2.5 Oregon Water Resources Department

2.5.1 Water Use Permit

Agency:

Water Resources Department



Oregon Water Resources Department
725 Summer St. NE Suite A
Salem, OR 97301

Phone: (503) 986-0900
Fax: (503) 986-0901

Web site: <http://www.wrd.state.or.us/>
Click [here](#) for staff e-mail directory.

Description:

Water rights are obtained in a three-step process. The applicant first must apply to the department for a permit to use water. Once a permit is granted, the applicant must construct a water system and begin using water. After water is applied, in most circumstances, the permit holder must hire a certified water right examiner to complete a survey of water use and submit to the department a map and a report detailing how and where water is being applied. If water has been used according to the provisions of the permit, a water right certificate is issued based upon the report findings.

Water-Use Permit: A permit is the authorization from the department necessary to begin constructing a water system and begin using water. Once the department issues a permit, if users comply with the conditions of the permit and develop their water right, the department cannot later decide to revoke or change the permit or impose new standards for the use.

Some uses of water are exempt from the requirement to obtain a permit. These are called "exempt uses." Exempt uses of surface water include:

1. Natural springs: use of a spring, which, under natural conditions, does not form a natural channel and flow off the property where it originates at any time of the year.
2. Stock watering: where stock drink directly from a surface water source and there is no diversion or other modification to the source. Also, use of water for stock watering from a permitted reservoir to a tank or trough, and, under certain conditions, use of water piped from a surface source to an off-stream livestock watering tank or trough.
3. Salmon: egg incubation projects under the Salmon and Trout Enhancement Program (STEP) are also exempt. Also, water used for fish screens, fishways and bypass structures.
4. Fire control: the withdrawal of water for use in, or training for, emergency firefighting.
5. Forest management: certain activities such as slash burning and mixing pesticides. To be eligible, a user must notify the Oregon Water Resources Department and the Oregon Department of Fish and Wildlife and must comply with any restrictions imposed by the Oregon Water Resources Department relating to the source of water that may be used.
6. Land management practices: where water use is not the primary intended activity.

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7. Rainwater: collection and use of rainwater from an impervious surface (like a parking lot or a building's roof).

Groundwater exempt uses include:

1. Stock watering.
2. Lawn or noncommercial garden: watering of not more than one-half acre in area.
3. Single or group domestic purposes: for no more than 15,000 gallons per day.
4. Single industrial or commercial purposes: not exceeding 5,000 gallons per day.
5. Down-hole heat exchange uses.
6. School grounds: 10 acres or less, of schools located within a critical ground water area.

Note: While these water uses do not require a permit, the use is only allowed if the water is used for a "beneficial purpose without waste" and may be subject to regulation in times of water shortage.

Oregon's minimum [well construction standards](#) must be followed for the construction, maintenance, and abandonment of any well.

Stored-Water Permit: The construction of a reservoir or pond of any size to store water requires a permit from the department. A permit to construct a reservoir allows storage of streamflow and is usually filled from higher streamflows that occur during the winter months.

A permit for a reservoir with the sole purpose of storing water is considered the primary permit. Permit holders intending to divert and use or maintain water stored in the reservoir or pond will need an additional, or secondary, water use permit.

Alternate Review Reservoir: An alternative permit application process is available to persons interested in building small reservoirs storing less than 9.2 acre-feet of water or in reservoirs with dams less than 10 feet in height. For certain reservoirs or ponds filed under this process, those that store less than 9.2 acre-feet and do not have a secondary permit to use the stored water, a survey is not required to receive a water right certificate. Instead, permit holders may submit information on the dimensions, capacity, and location of such reservoirs to the department.

Jurisdictional limits:

Waters of this state.

Statute/rule:

[ORS 537.141](#) et seq.
[OAR 690-310](#) et seq.
[ORS 537.143-537.144](#)
[OAR 690-340-030](#)

Activities typically requiring this permit:

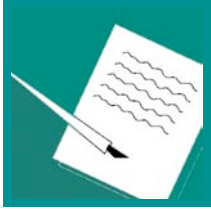
Most appropriations and beneficial uses of surface water or ground water, for example, wetland or stream restoration, water diversions, dams and impoundments.

State Agency acronyms:

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Application requirements:



For an application to be considered, an applicant must submit a completed application to the department along with other information and maps, as required by statute. Types of information that may be required:

1. A legal description of the property involved (may be found on a deed, land sales contract, or title insurance policy).
2. A map showing the features of the proposed use and proposed source according to township, range, and section including any roads or other right of ways crossed by proposed diversion works.
3. In most cases, a statement declaring whether the applicant has written authorization that allows access to land not owned by the applicant (including land crossed by proposed diversion works).
4. The names and addresses of any other property owners that may be affected by the proposed development.
5. Land-use information obtained from the affected local government planning agency.
6. Supplemental Form (if necessary) such as Form I for irrigation or Form M for a municipal right.

It is important that application instructions are carefully followed. If application materials are incomplete, they will be returned to the applicant.

[Application forms](#)

[Application review criteria](#)

Applicants with complex requests or applicants who are unfamiliar with the application process are encouraged to contact the department to schedule a pre-application conference. The department's [Water Rights Section staff](#) members are available to meet with applicants about their proposed project. A pre-application conference can help the process to go much smoother and minimize chances that the applicant will encounter surprises along the way.

Time frame:

Water-Use Permit: The requirements outlined in the Oregon statutes and the department's administrative rules generally require the department to issue a final order approving or denying the application within eight months. However, if protests are filed, the department may schedule a contested case hearing to resolve issues raised in the protest(s). A contested case hearing often extends the process beyond eight months.

Alternate Reservoir: This process involves an expedited review process and requires the department to grant a permit or deny the application within six months.

Application fees:



Individual Permit: Minimum application fees for a regular groundwater or surface water application are \$500. An additional \$250 is due if a permit can be issued. The [fee schedule](#) is available online. Applications to use only stored water are less expensive. The fees for the alternate reservoir application range from \$50 to \$290.

The fee for examination and recording of a limited license is \$150 for the first point of diversion plus \$15 for each additional point of diversion.

Call the department if you are not sure how much money to submit with your application.

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Standards of review/ approval:



During the application review stage, the department examines applications to ensure that allowing the proposed use will not cause injury to other users or public resources. The department also determines if water is likely to be available for use and considers many other factors including basin plan restrictions that might prohibit certain uses or further appropriations, local land-use restrictions, impacts on sensitive, threatened or endangered species, water quality, and other state and federal rules.

For example, when considering a water right application in or above a state scenic waterway, the department is required by law to find that the proposed use will not impair the recreational, fish, and wildlife values. The department has prepared estimates of the streamflow levels needed to satisfy these uses. These estimates may be used in determining whether new water rights in or above a scenic waterway should be authorized.

Also during the application review stage, other water right holders, government agencies, and the public may comment on or protest the application.

Permit duration: As long as the water is used consistent with the permit’s terms and conditions, permits are issued with the intent that the water will be used forever. A certificate of water right often takes the place of the permit after the use has been developed and a certified water right examiner has submitted a claim of beneficial use. Certificates can only be canceled voluntarily or due to a period of nonuse that is not excused by law.

Other agencies’ programs commonly associated with this permit or review: Other state reviews or approvals that may be required include:

- [Removal-fill permit](#) - DSL
- [Proprietary authorization](#) - DSL
- [Fish passage requirement](#) – ODFW
- [Fish screening requirement](#) – ODFW
- [In-water timing guidelines](#) – ODFW
- [Habitat mitigation recommendation](#) - ODFW

Special considerations: As an alternative to the water right application process, a person may apply to the department to transfer an existing water right. A transfer is necessary to make changes to existing water rights, such as changing the type of use or place of use. The department will review transfer applications to determine whether the transfer will injure existing water rights. Click [here](#) for additional information about transfers.

State Agency acronyms:

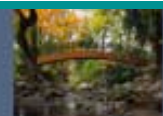
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WRD Oregon Water Resources Department

2.5.2 Limited License

Agency:

Water Resources Department



Oregon Water Resources Department
725 Summer St. NE Suite A
Salem, OR 97301

Phone: (503) 986-0900

Fax: (503) 986-0901

Web site: <http://www.wrd.state.or.us/>

Click [here](#) for staff e-mail directory.

Description:

Oregon law provides a method for obtaining permission to divert and use water for a short-term or fixed duration. Certain types of uses can be allowed using a “[limited license](#)” provided that water is available and the proposed use will not injure other water rights. These authorizations allow landowners and developers to use water for purposes that do not require a permanent water right.

[Limited licenses](#) are “junior” to all other uses and subject to revocation at any time. There is no guarantee that water will be available.

Jurisdictional limits:

Waters of this state.

Statute/rule:

[ORS 537.143—537.144](#)

[OAR 690-340-0030](#)

Activities typically requiring this license:

[Limited licenses](#) are available for diversion and use of water for a short-term or fixed duration. Uses under a limited license may include, but are not limited to, road construction, fire fighting, general construction, rangeland management, and emergency use authorization. Uses of a longer duration may also qualify for limited licenses.

Generally, irrigation uses are not allowed under a limited license. In some cases, however, a limited license may be used to establish a crop that will not require further irrigation once established. In cases of severe drought, the department may issue limited licenses so landowners can avoid irreparable crop damage by continuing the use of water after the close of the irrigation season. In addition, a limited license may be used for irrigation purposes in cases where the license is issued for use of stored water, provided certain criteria are met.

Application requirements:

A request for a limited license must include the [limited license application form](#), the required fee, a completed water availability statement from the [local watermaster](#) on the appropriate form and a map of reproducible quality. Mapping requirements are provided at [OAR 690-340-0030\(1\)\(c\)](#).

Time frame:

A limited license may be available as soon as three weeks after filing an application with the department.

Application fees:

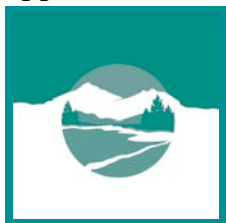
The fee for examination and recording of a limited license is \$150 for the first point of diversion plus \$15 for each additional point of diversion. Call the department if you are not sure how much fees to submit with your application.

State Agency acronyms:

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WRD Oregon Water Resources Department

Standards of review/ approval:



The department conducts a review of an application for a limited license to assess the proposed use, diversion and location for water availability and public interest concerns such as threatened or endangered fish, water quality limited streams, or scenic waterways. The department provides an opportunity for the public to comment on a proposed limited license. If the department finds that water is available and the proposed use will not impair the public interest, a limited license is issued with terms and conditions similar to those of a [water use permit](#). The license includes a condition that specifies when it expires.

Permit duration:

Generally, the department may not issue a limited license for the same use for more than five consecutive years. A license may, however, be revoked at any time during that period if the use causes injury to any other water right or a minimum perennial stream flow.

Other agencies' programs commonly associated with this permit or review:

Other state reviews or approvals that may be required include:

- [Removal-fill permit](#) - DSL
- [Proprietary authorization](#) - DSL
- [Fish passage requirement](#) – ODFW
- [Fish screening requirement](#) – ODFW
- [In-water timing guidelines](#) – ODFW
- [Habitat mitigation recommendation](#) - ODFW

State Agency acronyms:

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Section 2.6 Department of Land Conservation and Development

2.6.1 CZMA Certification

Agency:

Oregon Department of Land Conservation and Development (DLCD)



Oregon Coastal Management Program

635 Capitol St. NE, Suite 150

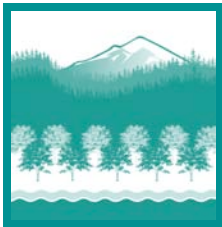
Salem, OR 97301

Phone: (503) 373-0050

Fax: (503) 378-4844

Web site: <http://www.lcd.state.or.us>

Description:



Oregon has a federally approved coastal management program. This program generally applies within the state's [coastal zone](#), extending from the boundary of the "Territorial Sea" to the crest of the coast range. Projects requiring a federal license or permit within this area must be consistent with the enforceable policies of the coastal management program. The formal term for these requirements is "federal consistency." Click [here](#) for more information about the "federal consistency" requirements of the Coastal Zone Management Act.

The enforceable policies include three components: the statewide planning goals adopted by the Land Conservation and Development Commission; comprehensive plans and land-use regulations adopted by local governments and "acknowledged" by the Land Conservation and Development Commission as being in compliance with the statewide planning goals; and requirements of Oregon state agencies with regulatory authority integrated within the Oregon Coastal Management Program (OCMP) (e.g. DSL, DEQ, ODFW, OPRD, WRD, ODOE, DOGAMI).

Jurisdictional limits:

Coastal Zone: Oregon's [coastal zone](#) generally extends from the boundary of the "Territorial Sea" to the crest of the coast range. For the Columbia River, the boundary extends to the western edge of Puget Island. For the Umpqua River, the boundary extends to Scottsburg. For the Rogue River, the boundary extends to Agness.

Statute/rule:

[ORS 195, 196 and 197/](#)
[OAR Chapter 660](#)

Activities typically requiring concurrence:

Activities requiring a permit from the U.S. Army Corps of Engineers including, but not limited to: [stream bank stabilization](#), bridges and culverts, wetland fills, in-stream gravel removal, piling projects, wetland/stream restoration, maintenance dredging, water diversions, utility lines and outfalls, dams and impoundments

Application requirements:

Applicants for federal licenses or permits subject to federal consistency review must provide a consistency certification indicating that the proposed activity "complies with the enforceable policies of Oregon's approved management program and will be conducted in a manner consistent with the program."

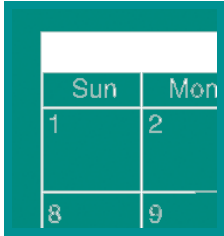
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The applicant must supply “necessary data and information” to support the certification. This data and information typically includes a list of enforceable policies and findings that explain why the proposed activity is consistent. Applicable local and state approvals are typically required in advance of or as a condition of state federal consistency concurrence.

Time frame:



The federal Coastal Zone Management Act provides six months for the state to complete its review of consistency certifications. This period can be extended if the certification does not contain “necessary data and information” required to initiate public review. If a certification is complete, state concurrence can be conclusively presumed if the state does not act within six months. State concurrence can be conditioned on the receipt of local or state approvals, including the resolution of any appeals.

Application fees: None

Standards of review/ approval:

- Statewide planning goals
- Acknowledged comprehensive plans and land-use regulations of local government
- Requirements of state agencies that are incorporated into the Oregon Coastal Management Program

Permit duration:

Consistency concurrence does not expire unless the specific permit is such that a time limit is necessary to meet enforceable policy requirements. In some circumstances, substantial changes to a project’s coastal resource or use effects can trigger the need for an amended or new certification and concurrence.

Other agencies’ programs commonly associated with this permit or review:

The following other state agency actions typically occur as part of consistency certification and concurrence:

- [In-water timing guidelines](#) - ODFW
- [Fish passage requirement](#) - ODFW
- [Habitat mitigation recommendations](#) - ODFW
- [Ocean Shore Permit](#) - OPRD
- [Archeological Review](#) - OPRD
- [Water Quality Certification](#) (for projects that require a [Section 404 Permit](#) from the U.S. Army Corps of Engineers) - DEQ
- [1200-C Stormwater Permit](#)– (for construction sites larger than one acre) - DEQ
- [Water Use Permit](#) - WRD
- [Removal-fill permit](#) - DSL
- [Proprietary authorization](#) - DSL

Special considerations:

Applicants should work with the local government to ensure they meet land-use planning requirements. In addition to the federal consistency provisions outlined in this section, state agencies are obligated to exercise their regulatory authority in

State Agency acronyms:

DEQ	Oregon Department of Environmental Quality	ODF	Oregon Department of Forestry
DLCD	Oregon Department of Land Conservation and Development	ODFW	Oregon Department of Fish and Wildlife
DOGAMI	Oregon Department of Geology and Mineral Industries	OPRD	Oregon Parks and Recreation Department
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ODA	Oregon Department of Agriculture	WRD	Oregon Water Resources Department



compliance with the statewide planning goals and in a manner that is compatible with local government “acknowledged” comprehensive plan and land-use regulation requirements. Most state agencies rely on a “Land Use Compatibility Statement” (LUCS) or a “planning affidavit” signed by a local planner or other local official indicating that the project is consistent with the applicable local planning requirements. In some instances, comprehensive plan and land-use regulation compatibility requires a local government permit or other approval.

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Section 2.7 Brief Overview of Related Agencies' Programs

The following state programs regulate specific activities (agriculture, forestry, mining) that, on occasion, occur within wetlands and waterways. A brief overview of these programs is provided here. Please visit the agencies' Web sites for more detailed information.

2.7.1 Forest Practices Act

Agency:

Oregon Department of Forestry (ODF)

Department of Forestry
2600 State St.
Salem, OR 97310

Phone: (503) 945-7200
Fax: (503) 945-7212

Web site: <http://www.oregon.gov/ODF/index.shtml>
Click [here](#) for staff e-mail directory.

Description:

The Oregon Forest Practices Act sets the standards for any commercial activity involving the establishment, management, or harvesting of trees on Oregon's forestlands. It regulates these forest operations on all nonfederal lands, including private, state-owned, and county- or city-owned forestlands. The Forest Practices Act was adopted in 1971 and serves as a statutory framework for a program that includes rules, technical assistance, enforcement, and effectiveness and compliance monitoring.

Before conducting an operation or forest practice, landowners and operators will usually need to inform the ODF by submitting a Notification of Operation form to the local ODF office at least 15 days prior to the start of the operation. Some activities require more than notification. They require submitting a written plan or a plan for an alternate practice before starting the operation. Activities requiring a written plan involve activities in or near wetlands or waterways, such as:

- Operations within 100 feet of a Type F or Type D stream
- Operations within 300 feet of a "significant" wetland
- Operations within 300 feet of areas identified by ODF as important for certain wildlife species

Written plans are required for additional practices, but may be waived by the ODF forester, and plans for alternate practices may be proposed using protection standards or methods different than those specified in rule or statute. The act does require the use of best management practices to protect aquatic and terrestrial resources.

Activities directly connected with a forest management practice, when conducted within the bed and banks of waterways or wetlands and in accordance with the Forest Practices Act, are exempt from state [Removal-Fill Permit](#) requirements.

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ODF offers a range of resources to assist you in determining whether your activity is subject to, and in compliance with, the Forest Practices Act, including:

- The Private & Community Forests Program Web site:
http://egov.oregon.gov/ODF/PRIVATE_FORESTS/operations.shtml
- Stewardship foresters [contact list](#)
- [Combined Forest Practice Administrative Rules and Forest Practices Act Rulebook](#)

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OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.7.2 Agriculture Water Quality Program (Senate Bill 1010)

Agency:

Oregon Department of Agriculture (ODA)

Natural Resources Division
635 Capitol St. NE
Salem, OR 97301

Phone: (503) 986-
Fax: (503) 986- 4730
TTY: (503) 986-4762

Web site: <http://www.oregon.gov/ODA/>
Click [here](#) for staff e-mail directory.

Description:



The Agricultural Water Quality Management Program, administered by the Oregon Department of Agriculture's Natural Resources Division, is responsible for addressing water pollution associated with agricultural lands and activities. Under the Agricultural Water Quality Management Act of 1993, (SB 1010), ODA was authorized to work with farmers and ranchers to develop Agricultural Water Quality Management Area Plans (AgWQM Area Plans) to improve water quality. ODA has established 39 management areas covering essentially all of Oregon's watersheds and adopted Area Plans and rules for each area. The watershed-based plans identify measures and strategies for landowners to prevent and control water pollution resulting from agricultural activities and soil erosion. Under the AgWQM Area Plans, local operators are asked to correct problems such as soil erosion, excess nutrient loss from fields, or degraded streamside areas. Farmers and ranchers may choose their own methods of meeting established water quality goals according to their local AgWQM Area Rules. Most Area Plans include lists of best management practices appropriate for the region.

Education and technical assistance will be the focus of efforts by ODA and local Soil and Water Conservation Districts (SWCDs). There may be situations that require corrective action to be taken by operators. In cases when a farmer will not voluntarily correct a problem, the law allows ODA to use formal enforcement measures, including civil penalties. Click [here](#) to view a list of area plans and rules.

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ODFW Oregon Department of Fish and Wildlife
OPRD Oregon Parks and Recreation Department
SHPO State Historic Preservation Office
WRD Oregon Water Resources Department

2.7.3 Mineral Land Regulation and Reclamation

Agency:

Department of Geology and Mineral Industries (DOGAMI)

Department of Geology and Mineral Industries
229 Broadalbin St. SW
Albany, OR 97321

Phone: (541) 967-2039

Fax: (541) 967-2075

Web site: <http://www.oregon.gov/DOGAMI/mlr/mlrhome.shtml>

Click [here](#) for staff e-mail directory.

Description:



The Department of Geology and Mineral Industries' (DOGAMI) Mineral Land Regulation and Reclamation Program (MLRR) issues two types of permits for mining activities. (This does not include in-stream mining. The Department of State Lands uses the [Removal-Fill Permit](#) to regulate in-stream mining.)

- a. **Operating Permit** – An Operating Permit is required for mining operations that have an activity level that exceeds one acre and/or 5,000 cubic yards of new disturbance in any 12-month period, unless the excavated material stays on the property. There are no quantity restrictions, and reclamation is required. The application fee is \$1,200, and the permit is renewed annually until mining and reclamation are complete.

To apply for an Operating Permit, the forms you will use are: Operating Permit Application (SMLR-1-OP) and Operating and Reclamation Plan (SMLR-16). Additional information may be required for an Operating Permit application for sites on floodplains, in hydrologically sensitive areas, or on steep slopes. Visit [Application Guidelines for Additional Information Requirements](#) to see if this information may be required for your operation.

- b. **Grant Of Total Exemption** – A Grant of Total Exemption is available for mining operations with an activity level that is less than one acre and/or 5,000 cubic yards of new disturbance in any 12-month period, unless the excavated material stays on the property. A Grant of Total Exemption is a certificate issued by the department stating that the applicant has provided information to us that their activities will not exceed those that would require an Operating Permit. The certificate is not required by DOGAMI, but is offered to operators who want confirmation of compliance. Reclamation is not required, and the application processing charge is \$50. The exemption may be renewed annually. To apply for a Total Exemption, use Grant of Total Exemption Application (SMLR-1-TE).

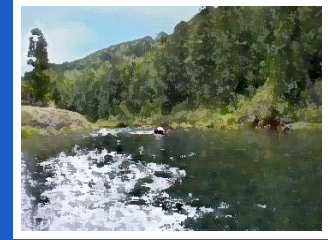
Best Management Practices Manual is available for mine operators, landowners, and land-use planners. It describes reclamation and mining practices for aggregate mines in Oregon. The manual has been published as DOGAMI Open-File Report O-96-2 and is available for \$8 by calling DOGAMI or through the [Nature of the Northwest Information Center](#) in Portland.

State Agency acronyms:

DEQ	Oregon Department of Environmental Quality
DLCD	Oregon Department of Land Conservation and Development
DOGAMI	Oregon Department of Geology and Mineral Industries
DSL	Oregon Department of State Lands
ODA	Oregon Department of Agriculture

ODF	Oregon Department of Forestry
ODFW	Oregon Department of Fish and Wildlife
OPRD	Oregon Parks and Recreation Department
SHPO	State Historic Preservation Office
WRD	Oregon Water Resources Department

Section 3



Resource Guide for Common In-Water Activities

Section 3.1 Stream Bank Stabilization

Rivers and streams move. And water not only flows from upstream to downstream, but from side to side too. In any given day, month, or year, we may not see this side-to-side movement but, sometimes gradually and sometimes quickly, streams and rivers will shift their position across the floodplain. This action is called “meandering,” and it is a natural and normal process of flowing waters. Often, we see this occur on the outside curve of a stream where the stream’s energy naturally cuts away at the outside bend of the stream bank while depositing material on the inside of the bend. Streams meander in this way releasing the energy held by the flow of water. When we do things to the stream bank to stop that natural meandering using rock, dikes, levees, or other hard surfaces, the stream’s energy gets deflected further downstream in greater force. This can exacerbate stream bank erosion and flooding on downstream properties. Fixing the stream bank in-place with rock or other hard surfaces also destroys streamside or “riparian” vegetation important to fish and wildlife for food and shelter and causes heating of the water. Also, when, someday, that hardened bank becomes undermined and fails during flooding, the exposed, unvegetated bank is prone to rapid erosion, resulting in property loss.

This is why Oregon state agencies regulate stream bank stabilization projects very carefully. If not done correctly, such projects can make your or your neighbors’ erosion or flooding problems worse and harm fish and wildlife that depend on healthy stream banks.

Are there effective ways of controlling bank erosion that don’t involve creating hard surfaces?

Yes. There are design options that use shrubs, trees, and wood to effectively control bank erosion. These options, commonly referred to as “bioengineering,” emulate natural elements to reduce erosion and redirect stream energy.

What is bioengineering?

Bioengineering involves the use of live, native shrubs and trees, sometimes in combination with large woody debris and/or selective use of rock, in ways that the plant roots and stems provide slope protection. Vegetation is planted in specific ways to provide soil reinforcement and erosion control.

Bank reshaping is sometimes associated with bioengineering. Vertical banks are often most prone to erosion because they are unvegetated and receive the full force of the river over a small surface area. In such cases, the stream bank may first need to be sloped or laid back to create a broader, more stable surface area that can then accommodate bioengineering treatments such as planting and log/boulder structures.

What benefits does bioengineering offer for streambank stabilization?

- Streamlined state permitting: The Department of State Lands offers a no-cost, faster (i.e, 40-day rather than typical 120-day) permit application process (called “General Authorization”) for stream bank stabilization projects that incorporate bioengineering techniques.

- More natural bank appearance: A vegetated, natural-looking bank offers a visually pleasing waterway experience compared to a sterile rock bank.
- Benefit to fish and wildlife: Bioengineering brings plants and large woody material to the water's edge that fish and wildlife can use for feeding, hiding, and rearing their young. The plants also provide shading that cools the water for the benefit of fish and other aquatic life.
- Effectiveness: When properly designed and constructed, bank stabilization projects incorporating bioengineering methods can provide equally effective and longer-term control compared with rock-only treatments. Plant root systems help stabilize the bank and take up water moving through the slope that reduces run-off and adds further stability.

Are there bioengineering designs for bank stabilization that I can consider?

Yes. There are many good designs available to help you design and construct a successful bioengineered project. As you consider these designs, it is important to understand that streambank erosion occurs for many different reasons and that some bioengineering methods are more suited to particular kinds/causes of erosion than others. If you are uncertain what type of bioengineering design is best for your situation, you can contact a Department of State Lands [Resource Coordinator](#), [Department of Fish and Wildlife field office staff](#), [Soil and Water Conservation District staff](#), or your [local watershed council](#) for further assistance.

Here are few online resources to get you started, in order of increasing detail:

- [DSL Web site](#) information on bioengineering. An overview of basic bioengineering methods.
- [“Successful Bioengineering for Semi-Arid Climates”](#), Chris Hoag, Wetland Plant Ecologist, Aberdeen Plant Materials Center, USDA-Soil Conservation Service. A slide show illustrating many tips and techniques for bio-engineered stream bank stabilization in dry or wet climates. (4 MB file)
- [Stormwater Manager’s Resource Center](#) Stream bank stabilization fact sheet. More information on basic bioengineering methods.
- [“The Practical Streambank Bioengineering Guide.”](#) Interagency Riparian/Wetland Project, Gary Bentrup and J. Craig Hoag, May 1998. While geared toward sites in the arid and semi-arid Great Basin and Intermountain West region, the designs and information presented in this guide are generally applicable to Oregon.
- [“Erosion and Sediment Control Manual”](#), Oregon Department of Environmental Quality, April 2005. Discusses a range of best management practices for erosion and sediment control including stream bank stabilization. Appendices D, E, and F offer specific design options.
- [“Alternative Bank Protection Methods for Puget Sound Shorelines”](#), Washington Department of Ecology, 2000. A useful guide for bank stabilization projects on tidal waters/shorelines.
- [“Integrated Streambank Protection Guidelines.”](#) Washington Department of Fish and Wildlife. An exhaustive analysis of streambank stabilization and bioengineering methods including options for different conditions, detailed designs, construction methods, and costs.

Do I need any state permits to do a bank stabilization project?

Yes. In most cases, a DSL Removal-Fill Permit or General Authorization will be required. Click [here](#) to learn more about the DSL permit process. From here you can also get information on other associated state permits or reviews that may be required before starting your streambank project. You may also need a federal permit issued by the U.S. Army Corps of Engineers. Click [here](#) for more information.

You should also check with your local city or county planning department to find out if any local floodplain development permits or grading permits are required.

Resource guides are currently under development for other common in-water activities including:

- **In-stream Gravel Removal**
- **Wetland Fills**
- **Bridges and Culverts**
- **Piling Projects**
- **Maintenance Dredging**
- **Water Diversions**
- **Utility Lines and Outfalls**
- **Wetland and Stream Restoration**
- **Dams and Impoundments**