

Wetland Mitigation & Mitigation Banks

When property owners seek permits to alter wetlands, they are required to replace, or mitigate, the resource by improving, creating or restoring wetlands.



If property owners are not able to accomplish wetland mitigation on site, they may pay for credits in a mitigation bank. The payment is used to improve, create, restore and maintain wetlands at the mitigation bank. Oregon Removal-Fill Program rules require that landowners seeking to pay for mitigation must use a bank if one exists that includes the project site in its service area. For information about banks operating in Oregon, visit DSL's Website and click on "Wetlands," then "Wetland Mitigation." Or call (503) 378-3805 and ask for the mitigation specialist.

Ocean Shore Projects

If your project is located on the ocean shore, you may need approval from the Oregon Parks and Recreation Department. Ocean shore alterations requiring permits include the construction of shoreline protective structures, beach access ways, dune grading and other sand alterations, the routing of pipelines and cables beneath the ocean shore, marine algae collection, and natural product removal.

For information and forms, go to www.oregon.gov/OPRD. Click on "Programs and Services," then scroll to "Ocean Shores permitting," or call (503) 986-0707.

Scenic Waterway Projects

Certain projects within state scenic waterways may require that you notify and obtain approval from the Oregon Parks and Recreation Department.

For information and permits, go to www.oregon.gov/OPRD. Click on "Programs and Services," then scroll to "Scenic Waterways" or call (503) 986-0707.

ADDITIONAL INFORMATION

U.S. Army Corps of Engineers
333 SW First Ave
Portland OR 97204
(503) 808-5150
www.nwp.usace.army.mil

Contact our offices

Western Region Office—Salem
(Serving Oregon west of the Cascades)
775 Summer St. NE Suite 100
Salem OR 97301-1279
(503) 378-3805

Eastern Region Office—Bend
(Serving Oregon east of the Cascades)
1645 NE Forbes Road, Suite 112
Bend OR 97701
(541) 388-6112

On the Web:

General information about all agency activities with extensive information about the Removal-Fill Program and Wetlands:

www.oregonstatelands.us

A direct link to removal-fill permit applications, including status of pending applications:

www.statelandsonline.com



OREGON DEPARTMENT OF STATE LANDS

Rev. 4-06



Planning to work in wetlands or waterways?

YOU MAY NEED A PERMIT

Technical Assistance

Application Requirements

Consultant Contacts

Extensive Web Resource

Permit Status on Web



OREGON DEPARTMENT OF STATE LANDS

Removal-Fill Program Purpose

The original Oregon Removal-Fill Law was passed in 1967 to meet several goals:

- Protect, conserve and make best use of water resources.
- Protect public navigation, fishery and recreational uses.
- Ensure that activities of one landowner don't adversely affect another.
- Minimize flooding, improve water quality, and provide fish and wildlife habitat.

Department of State Lands Involvement

Oregon's Removal-Fill Law requires people who plan to fill, remove or alter materials in waters of the state to obtain an authorization (permit) from DSL.

Waters of the state include:

- Natural waterways including bays and estuaries.
- Constantly flowing streams.
- Some intermittent streams.
- Wetlands, lakes and other bodies of water, including mitigation sites.
- The Pacific Ocean within three miles of shore.
- Certain ditches, artificially created wetlands, ponds and channels.

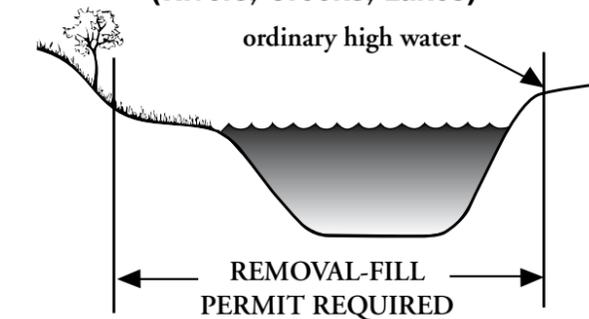
Conditions requiring permits

1. Projects **removing more than 50 cubic yards** of material in any calendar year in a wetland or waterway.
2. Projects **filling 50 cubic yards or more** in one location (no time limit) in a wetland or waterway.
3. The removal or fill of **any amount of material** in a stream designated as **essential salmon habitat**.
4. The removal or fill of **any amount of material** from **state scenic waterways**.

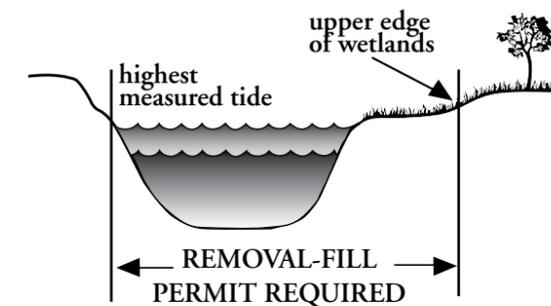
There are numerous exemptions. Contact a DSL resource coordinator to discuss exemptions.

Areas Where Permits Are Required

NON-TIDAL WATERS (Rivers, Creeks, Lakes)



TIDAL WATERS (Bays, Estuaries, Tidal Rivers)



WETLANDS





Types of removal-fill permits

There are three types of permits depending on the size and nature of the project. Discuss your project with a DSL resource coordinator to determine what type may be required.

An **individual permit** applies to projects with potentially significant impacts. DSL charges a fee based on the volume of material and whether the applicant is private, public or commercial.

A **general authorization** provides an expedited review process for certain categories of small projects.

Emergency permits may be issued for limited, specific situations.

Placer mining/prospecting

You may be required to obtain an individual permit or general authorization to conduct placer mining in Oregon’s rivers and streams. The form of permission (if any) you may need depends on where you will conduct the activity and what you intend to do. For information, go to the DSL Web site at www.oregonstatelands.us and click on “Mining” in the left-side column. Or contact DSL. To apply for a recreational or small-scale prospecting or placer mining permit on-line, visit: www.statelandsonline.com.

Corps of Engineers permit

Many projects that require a DSL removal-fill permit also will require a federal permit from the U.S. Army Corps of Engineers. The federal permit is required for compliance with Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. DSL and the Corps use a joint application form and you will be asked to submit a copy to each. Each agency reviews the form and issues separate permits that may have different requirements.

Statewide Programmatic General Permit

For certain categories of removal-fill activities, DSL can issue a single permit covering both the federal (Corps of Engineers) and state programs. If your project qualifies for the SPGP, a DSL removal-fill permit containing the Corps authorization is all you will need to proceed. DSL routinely screens all permit applications for SPGP eligibility.

APPLICATION PROCESS

A complete application must include a discussion of measures taken to avoid and minimize project impacts, if more than 0.2 acres are impacted. The application must also contain an analysis of those impacts and a plan to mitigate (repair or replace) the impact to the wetland or waterway.

DSL gives notice of an application to appropriate local governments, state and federal agencies, adjacent property owners and interested citizens for review and comments. Comments received help the agency to evaluate the proposed project against the requirements in law and administrative rules and to prepare operating conditions under which a project can be approved.

If a project may affect wetlands, a wetland delineation report to map wetland boundaries may be required. It is helpful to obtain this report before finalizing development plans and submitting an application.

Projects removing, filling or altering 50 cubic yards—the equivalent of about five dump truck loads—require a permit.

PERMIT PROCESSING TIMELINES

Individual Permits

DSL is allowed up to 120 calendar days, from receipt of a complete application, to process an application for an Individual Permit. Within the first 30 days, the application is reviewed for completeness.* Once deemed complete, the application enters the Public Review Period and remains there for 30 days. Following the close of the Public Review Period, DSL has up to 60 days to make a permit decision, unless the applicant requests an extension.

General Authorizations

DSL is allowed up to 40 calendar days, from receipt of a complete application, to process an application for a General Authorization. Within the first 15 days, the application is reviewed to determine if it is complete and whether it qualifies for the General Authorization.* Once deemed complete, the application enters the Public Review Period and remains there for 15 days. Following the close of the Public Review Period, DSL has an additional 10 days to make a permit decision.

**If the application is incomplete, the timelines begin again when a revised application is received.*



DSL CAN PROVIDE ASSISTANCE IN MANY WAYS

Need Permits?

Contact a resource coordinator at DSL or through our Web site. Coordinators are assigned to counties; the DSL Web site lists staff assignments. Resource coordinators can help determine if a permit is needed, what type of permit might be required or discuss project design options that might affect the permit type or process.

Technical Assistance

A resource coordinator can answer your questions, discuss mitigation options or refer you to other resources in your community or other agencies. Contact the coordinator early in the process. You may wish to schedule a pre-application conference at the site. If you have questions about whether or not there are wetlands on your property, our Wetlands Team can help.

DSL Web site

Go to www.oregonstatelands.us and click on “Removal-Fill” on the left-hand column. You will find a permit application, a description of the permit review process, a list of consultants, and maps and lists of essential salmon habitat streams and scenic waterways. No Web access? Call a DSL office for a Removal-Fill Application Supplement that contains pertinent Web materials.

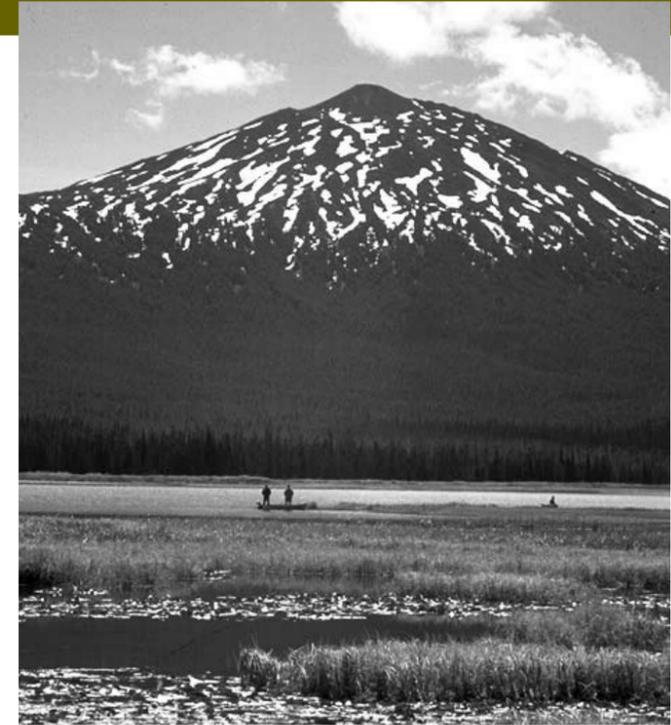
Consultant Referrals

DSL provides a list of consultants who conduct wetland delineations, work on removal-fill applications and develop mitigation plans. The list and advice on how to choose a consultant are available on our Web site and in the printed application supplement.

Application status

Call the resource coordinator for the county where the project is located. Or go to: www.statelandsonline.com. This site links you directly to applications, related information and current application status.

Adjacent property owners and others who can show legal standing may challenge a permit that has been issued.



Working without a permit

There are both criminal and civil proceedings available to enforce the Removal-Fill Law. Removal or filling without a permit or contrary to the conditions of a permit is a criminal misdemeanor punishable by a fine of up to \$2,500 and one year in jail. Violations are also subject to a civil penalty of up to \$10,000 per day of violation.

Cease and desist orders and restoration orders also may be issued by the agency. DSL’s resource coordinators work with landowners to find ways to correct activities that may have occurred without a permit and to resolve issues without taking legal action.

Reporting a possible violation

You can check to see if a project has a permit by going to www.statelandsonline.com and clicking on the county where the activity is occurring. If you suspect that someone is working without a removal-fill permit, contact one of the DSL offices. Information including the name, address and phone number of the responsible person and clear directions to the violation site are helpful.

Persons reporting violations may do so without giving their name.