

401 Certification & Mutual Agreement and Order (MAO)



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- 15 years as a water resources permit regulator
- 10 years as an ODOT project permit specialist
- 8 years as ODOT Water Resources Program Coordinator





401 Certification Takeaways

1. DEQ's 401/MAO process seeks to protect water quality by imposing practices that avoid and minimize water pollution
2. Triggered by Corps and DSL permits
3. Scheduling: usually ~3 months, sometimes 8-12+ months





Introduction and Purpose

HANDOUT 11



What are Section 401
and the MAO?



The Triggers



The Key Players

Key Process Steps

STEP	401 CERTIFICATION	MAO
Pre-filing meeting request	Required for individual permits only	Early coordination recommended
Obtain land use approvals	Required	Required
Submit application	Via Your DEQ Online	Via e-mail
Completeness review	Required	Required
Public Notice (PN)	No PN for many nationwide-covered projects	All submittals regardless of project size
Neighboring jurisdiction review	Required	Not required
Duration	Usually < 3 months, but DEQ is allowed to take up to a year	Usually < 3 months, but the law doesn't limit DEQ



Stormwater Management Plans



SWMP is a key part of the Certification or MAO request



SWMP required when the project constructs or reconstructs any impervious surfaces.



Describes the project's strategy for preventing the discharge of stormwater pollutants emanating from the project's contributing impervious area. It tells the story of the raindrop.



Persuades DEQ that the project's stormwater management measures will be adequate to prevent damage to receiving waters. It's an opportunity to—without fibbing—present the project in a positive light.



Possible Outcomes

Conditionally
Approve

Deny

Waive

Approve



Certification Conditions

Construction erosion and sediment control

Deleterious waste & spills

Turbidity limits & stop-work thresholds

Post-construction stormwater management & maintenance



Resources

- **DEQ's 401 page**
 - <https://www.oregon.gov/deq/wq/wqpermits/Pages/Section-401.aspx>
 - DEQ's Stormwater Management Plan Guidelines
 - SWMP Template
- **USACE's NWP permitting page**
 - <https://www.nwp.usace.army.mil/Missions/Regulatory/Nationwide/>
- **ODOT's Water Resources page**
 - <https://www.oregon.gov/odot/geoenvironmental/pages/water.aspx>
 - Water Resources Specialist Manual
 - ODOT's SWMP Template (adapted from DEQ's general template)
- **EPA Webinars**
 - <https://www.epa.gov/cwa-401/outreach-and-engagement>

Questions?

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