

In general permits for inwater work are required from the federal and state government and occasionally from a local government agency. In planning for OSMB grant projects consideration should be given to the types of permits that may be involved, how much they cost and how long it takes for approval. The following general information is based on Marine Board experience with boating facility projects and may differ for your project. Contact Department of State Lands (DSL), <http://www.oregon.gov/DSL/PERMITS/index.shtml>, and the US Army Corps of Engineers, <https://www.nwp.usace.army.mil/op/G/home.asp>, to find out specific permit requirements for the type of work you intend to perform and the waterbodies that may be affected.

In waterways designated by the federal government as a navigable, any work below the high water mark requires a permit, even moving 1 yard of soil. Some common activities are authorized by pre-issued permits called Nationwide or Regional General permits. Projects that do not fit these general permits require individual permits.

The Corps has special permits for certain small projects. For example, work that does not exceed 25 cubic yards (CY) of fill, may qualify for authorization under Nationwide 18, Minor Discharges. Similarly, Nationwide 13, Bank Stabilization and Regional General Permit D, Bank Stabilization may authorize work to stop active erosion.

Most facility replacement or construction projects require an individual permit from the Corps issued under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. This type of permit is generally referred to as the Sec. 10/404 permit. The Corps usually involves NOAA Fisheries (NMFS) and DEQ in the permit review and will not normally approve the permit until Endangered Species Act consultation is completed with NMFS and a Water Quality Certification is issued by DEQ. NMFS' recommendations and DEQ's water quality certification are usually adopted by the Corps as conditions of the permit.

Consultation with NMFS can vary greatly in length. See <http://www.nwr.noaa.gov/Regional-Office/Habitat-Conservation/Oregon-State-Branch/Index.cfm> for more information about ESA consultation processes. Federal regulations stipulate that formal consultation must be completed in 90 days, after which they have another 45 days to complete the documentation (by publishing a biological opinion). Another option is to conduct informal consultation, which has no established deadline for completion.

Because DEQ and NMFS may both have a significant role to play establishing terms and conditions for your project, it may be beneficial to discuss your project with them. This discussion may reveal issues or concerns that you can address in your project proposal/permit application that will help expedite its approval. See <http://www.deq.state.or.us/wq/sec401cert/sec401cert.htm> for more information about DEQ's water quality certification program.

Though they do not have distinct approval processes like DEQ and NMFS, the Corps may also solicit input from SHPO (<http://www.oregon.gov/OPRD/HCD/SHPO/index.shtml>), Native American Tribes, the Coast Guard (<http://www.uscg.mil/d13/portland/default.htm>), and others to comply with different federal laws. Permit processing time depends not only on how long these other agency actions take, but also on any public interest issues raised by public comment on the project. This amount of involvement by outside interests makes it difficult to forecast permit approval time, which can range from a couple of months to a year or more.

The Corps charges permit fees only if a permit is issued. They do not charge governing agencies, however, so your project should not be charged a fee. See page 6 of <https://www.nwp.usace.army.mil/op/g/docs/appintro.pdf> for more information. Of the other agencies involved in the Corps permitting process, only DEQ charges a fee. DEQ's fee is based on the volume of material removed or the area of fill. Currently the base fee is \$950, though no fee is charged for projects involving removal of less than 500 CY or fill of less than two acres. DEQ is in the process of implementing a fee increase, so this fee schedule is likely to change in the coming year. See [http://arcweb.sos.state.or.us/rules/OARs\\_300/OAR\\_340/340\\_048.html](http://arcweb.sos.state.or.us/rules/OARs_300/OAR_340/340_048.html) for the current fee schedule.

The Department of State Lands may require a permit for movement of material below high water. In some areas of the state, permits are required for any fill or removal activity, while in other areas DSL may require a permit only for movement of more than 50 CY of material below high water. See the maps at [http://www.oregon.gov/DSL/PERMITS/counties\\_ess.shtml](http://www.oregon.gov/DSL/PERMITS/counties_ess.shtml) for areas that may allow a permit exemption for small projects. Much like the Corps' general permits, DSL has General Authorizations that are an expedited approval process for certain activities. Boating facility projects, however, generally require an individual permit from DSL. DSL charges a base fee of \$620 to review a permit application. An additional fee of \$125 is due if the volume exceeds 500 CY. Greater volumes require additional fees. See [http://www.oregon.gov/DSL/PERMITS/docs/rf\\_fees.pdf](http://www.oregon.gov/DSL/PERMITS/docs/rf_fees.pdf) for more details. Oregon law requires DSL to issue or deny a permit within 90 days.

Some local governments also have approval processes for in-water work projects. Check with your local planning and building departments to find out if they claim jurisdiction over this type of work.

Most waterway in Oregon have specific in-water work periods during which work can be performed. These work periods are established by Oregon Department of Fish and Wildlife to ensure that work is completed at times least likely to harm fish or wildlife that may be in the project vicinity. See ODFW's guide at [http://www.dfw.state.or.us/lands/0600\\_inwtrguide.pdf](http://www.dfw.state.or.us/lands/0600_inwtrguide.pdf). When establishing a construction schedule for your project, be sure to consult the in-water timing guidelines and allow ample time for review and issuance of the required permits. Questions about DSL permitting should be directed to the resource coordinator for the county in which the project will be located. See [http://www.oregon.gov/DSL/PERMITS/contact\\_us\\_directory.shtml](http://www.oregon.gov/DSL/PERMITS/contact_us_directory.shtml) for a current list of resource coordinators. Contact the appropriate Corps project manager with questions about the Corps' permitting requirements (<https://www.nwp.usace.army.mil/op/G/contact.asp>).