



JUST THE FACTS...

HOW ARE WETLANDS AND WATERWAYS REGULATED?

This fact sheet gives you an overview of how activities in wetlands and certain other waters such as streams, lakes and bays are regulated. Because many local governments regulate activities in and adjacent to wetlands and waterways, your city or county land use planning department is a good first contact. Be aware, however, that whether or not a local permit is required, a state and/or federal permit for work in wetlands or waters may be required. Sound complicated? It can be, but this fact sheet gives you the basic information you need to determine whether the activity you propose *may* require a state or federal permit. The regulations are very detailed. Visit the Department of State Lands' Web site and/or contact the wetlands or permit staff for more specific information.

Activities in Wetlands and Waterways May Be Regulated by:

- ▶ The Oregon Department of State Lands (DSL) under the state Removal-Fill Law
- ▶ The Army Corps of Engineers (Corps) under the federal Clean Water Act and Rivers & Harbors Act
- ▶ The Oregon Department of Forestry under the Forest Practices Act
- ▶ The U.S. Natural Resources Conservation Service under the federal Farm Bill
- ▶ The Oregon Department of Agriculture, Natural Resources Division
- ▶ Some city and county land use ordinances

What Areas Are Regulated?

- ▶ "Waters of the State" or "Waters of the U.S." including:
 - Rivers, streams, most creeks and some ditches
 - Bays, estuaries and tidal marshes
 - Lakes and some ponds
 - Permanent and seasonal wetlands
- ▶ If you are uncertain whether there are regulated wetlands on your property, contact DSL for assistance.
- ▶ The regulations apply to all lands, public or private, except tribal lands.
- ▶ A wetland does not have to be mapped by the state or otherwise "designated" to fall under the regulations.

What Activities in Waters of the State/U.S. Are Regulated?

- ▶ Placement of fill material
- ▶ Alteration of stream banks or stream course
- ▶ Ditching and draining
- ▶ Excavation or dredging of material
- ▶ Bank stabilization (e.g., riprap or retaining walls)
- ▶ In-water construction such as piers (may also require a lease from DSL)
- ▶ Stump removal (large land-clearing projects)
- ▶ Commercial timber harvest

What Activities Are Exempt?

- ▶ Some routine maintenance activities such as repairing culverts.
- ▶ Established, ongoing agricultural activities such as plowing, cultivating, and ditch maintenance.
- ▶ Some minor projects involving small amounts of fill or removal.

Be sure to contact DSL and the Corps for specifics before you proceed with your project.

Confused?

For Urban Lands and Activities

- ▶ Contact: City or county planning department for local requirements
- ▶ Also contact: DSL (503) 378-3805 and the Corps of Engineers (503) 808-4373

For Agricultural Activities

- ▶ First contact: Natural Resources Conservation Service for your area (in phone book under U.S. Government, Department of Agriculture)
- ▶ Next contact: DSL and the Corps (some activities are regulated by all three agencies)

For Commercial Forest Operations

- ▶ First contact: Oregon Department of Forestry, Private & Community Forestry Program, (503) 945-7470
- ▶ If a change in land use is planned, also contact your local planning department, DSL and the Corps

How Can You Avoid the State and Federal Permit Process?

If you know with certainty the boundaries of any wetlands or waterways and can avoid those areas with your project, no state or federal permit is required. However, it is important to contact your local planning department, as some local governments have setback requirements.

What's Required to Get a Permit?

A permit application form may be obtained from either DSL or the Corps by mail or from their Web sites. A complete application must include the project design, a plan to minimize impacts to the resource and the fee. A wetland delineation may also be required. Applicants must design the project to avoid and minimize impacts to the waters to the extent practicable. In most cases, unavoidable wetland impacts must be compensated for through wetland restoration, enhancement or creation, or by buying credits from a mitigation bank (compensatory mitigation plan). If complete, the application goes through a public review process. The project must also be consistent with the city or county land use plan and must comply with Oregon's water quality standards.

How Are the Laws Enforced?

The best enforcement is to prevent unpermitted wetland alterations through accurate information and education. However, when violations do occur, a variety of enforcement tools may be used, including restoration orders, fines, civil penalties and/or criminal charges.

Basic State Permit Process

(Federal permit process is similar)

