

Oregon Coastal Management Program Coastal Zone Management Conditions

Effective Date: March 15, 2021

The federal Coastal Zone Management Act provides that federal actions affecting any use or resource of the coastal zone, including projects permitted by the U.S. Army Corps of Engineers (USACE), must be consistent with the enforceable policies of a State's federally approved coastal management program. Oregon's approved program, the Oregon Coastal Management Program (OCMP), is a "networked" program that integrates authorities of local governments and other state agencies. The coastal zone conditions contained in this document reflect the networked nature of the OCMP, and reference the specific applicable enforceable policies.

Oregon's coastal zone generally includes the area lying between the Oregon/Washington border on the north, to the Oregon/California border on the south, seaward to the extent of the state's jurisdiction as recognized by federal law, and inland to the crest of the Coast Range Mountains, excepting:

- a. The Umpqua River basin, where the coastal zone extends to Scottsburg;
- b. The Rogue River basin, where the coastal zone extends to Agness; and
- c. The Columbia River basin, where the coastal zone extends to the downstream end of Puget Island.

DLCD extended Advanced Conditional Review for the following Nationwide Permits: 21 and 52; however, if the project is located in an exclusion area, the project will require individual consistency review:

Exclusion 1: Territorial Sea

Any permit where the project is within or directly impacts the Territorial Sea (waters and seabed extending three (3) nautical miles seaward from the coastline, in conformance with federal law), except for projects permitted under NWP 1: Aids to Navigation.

Exclusion 2: Aquatic Habitats of Special Concern:

Individual consistency review is required for any permit where the project is within or directly impacts the following aquatic habitats of special concern within Corps jurisdiction.

- Mature forested wetland
- Wetlands in dunal systems
- Estuarine wetlands (in natural or conservation management units only)
- State special management areas (including marine gardens, marine reserves, research reserves, state habitat refuges, marine protected areas, and shellfish preserves)
- Kelp beds
- Rocky substrate in tidal waters (interpreted as all marine subtidal rock substrate and reefs and rocky intertidal shores)
- Native oyster beds

DLCD has not extended advance concurrence to, and will require an individual consistency review of any proposed Nationwide Permit that takes place under the following scenarios:

NWP #29

(Residential Developments)

Individual consistency review is required for any project utilizing NWP 29 (Residential Developments) that requires a local action as denoted in the applications Land Use Affidavit (JPA, Block 11). Local actions include but are not limited to text amendment, zoning change, goal exception, discretionary decision, or action by a city or county council or commission.

NWP #39

(Commercial and Institutional Developments)

Individual consistency review is required for any project utilizing NWP 39 (Commercial and Institutional Developments) that requires a local action as denoted in the applications Land Use Affidavit (JPA, Block 11). Local actions include but are not limited to text amendment, zoning change, goal exception, discretionary decision, or action by a city or county council or commission.

NWP #40

(Agricultural Activities)

Individual consistency review is required for any project that utilizes NWP #40 (Agricultural Activities) proposing greater than 300 linear foot loss of stream bed.

NWP #43

(Stormwater Management Facilities)

Individual consistency review is required for any project that utilizes NWP #43 (Stormwater Management Facilities) proposing greater than 300 linear foot loss of stream bed.

NWP# 44

(Mining Activities)

Individual consistency review is required for any project that utilizes NWP 44 that proposes the use of explosives.

NWP #51

(Land-Based Renewable Energy Generation Facilities)

Individual consistency review is required for any project that utilizes NWP 51 (Land-Based Renewable Energy Generation Facilities) proposing greater than 300 linear foot loss of stream bed.

NWP #57

(Electrical and Telecommunication Activities and Proposed)

Individual consistency review is required for any project that utilizes NWP C (Electrical and Telecommunication Activities and Proposed) proposing greater than 300 linear foot loss of stream bed.

NWP #58

(Utility Line Activities for Water and Other Substances)

Individual consistency review is required for any project that utilizes NWP D (Utility Line Activities for Water and Other Substances) proposing greater than 300 linear foot loss of stream bed.

The following Nationwide Permits always require an individual consistency review from DLCD:

NWP #12

(Oil or Natural Gas Pipeline Activities)

Individual consistency review is required for any project that utilizes NWP 12 (Oil or Natural Gas Pipeline Activities).

NWP 48

(Commercial Shellfish Aquaculture Activities)

Individual consistency review is required for any project that utilizes Nationwide Permit 48 (Commercial Shellfish Aquaculture Activities).

NWP #50

(Underground Coal Mining Activities)

Individual consistency review is required for any project that utilizes NWP 50 (Underground Coal Mining Activities).

NWP #55

(Seaweed Mariculture)

Individual consistency review is required for any project that utilizes NWP A (Seaweed Mariculture Activities).

NWP #56

(Finfish Mariculture)

Individual consistency review is required for any project that utilizes NWP B (Finfish Mariculture Activities).

Permitted projects in Oregon's coastal zone must comply with the following coastal zone conditions.

CZ Condition 1. Consistency with Local Comprehensive Plans

(1) Permitted projects must be consistent with or not subject to the applicable local comprehensive plan and implementing land use regulations, including the applicable estuary management plan, or the statewide land use planning goals where applicable. Permittee must obtain required permits or other authorizations from the applicable local government before initiating work under any USACE permit. Permittees are encouraged to provide USACE and the OCMP with verification of the local jurisdiction's approval in the form of a completed block ten (10) of the Joint Permit Application. All appeals of the local jurisdiction's decision(s) must be resolved before any regulated work may begin.

(2) All conditions placed on an authorization or permit by the local government are incorporated by reference into the OCMP coastal zone conditions.

CZ Condition 2. Consistency with Removal-Fill Law

(1) Permitted projects must be consistent with or not subject to the state requirements governing removal-fill in waters of the state. Permittee must obtain required permits or other authorizations from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) Projects requiring a DSL Removal-Fill permit must compensate for reasonably expected adverse impacts by complying to the full extent with DSL's compensatory mitigation requirements.

(3) Where DSL finds a project not subject to the Removal/Fill Law, permittee must submit to DSL any changes in project design or implementation that may reasonably be expected to require application of the Removal/Fill Law.

(4) All conditions placed on a Removal-Fill permit by DSL are incorporated by reference into the OCMP coastal zone conditions.

CZ Condition 3. Leases of State Lands

(1) Permitted projects must be consistent with or not subject to state requirements governing use of state lands. Permittee must obtain any required lease, license, or other authorization for the use of state lands or waters from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) All conditions placed on a lease, license, or authorization by DSL are incorporated by reference into the OCMP coastal zone conditions.

CZ Condition 4. Department of Environmental Quality

(1) Permitted projects must be consistent with or not subject to the state requirements governing water quality. Permittee must obtain certification, if required, from the Oregon Department of Environmental Quality (DEQ) through its 401 Water Quality Certification process before any regulated work may begin.

(2) All conditions placed on a license, permit, or authorization by DEQ are incorporated by reference into the OCMP coastal zone conditions.

CZ Condition 5. Fish and Aquatic Life Passage

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish passage (<http://www.dfw.state.or.us/fish/passage/>). Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) No work shall be authorized that does not provide for adequate passage of "aquatic life." Aquatic life shall be interpreted to include amphibians, reptiles, and mammals whose natural habitat includes waters of this state and which are generally present in or around, or pass through the project site.

(3) This condition is effective only where ODFW regulations apply.

CZ Condition 6. Ocean Shore

(1) Permitted projects must be consistent with or not subject to state requirements governing use of the ocean shore. Permittee must obtain, if required, an ocean shore permit from the Oregon Parks and Recreation Department (OPRD) before any regulated work may begin.

(2) All conditions placed on an Ocean Shore permit by OPRD are incorporated by reference into the OCMP coastal zone conditions.

CZ Condition 7. Fish Screening

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish screening and bypass devices. Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) This condition is effective only where ODFW regulations apply.