



# Oregon

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Co-chairs Helm and Owen, Members of the Committee,

Thank you for the opportunity to further explain the background for HB 2925. I am Matt Rippee, Deputy Director of Field and Community Services for Oregon Parks and Recreation Department (OPRD). We requested this bill to address three of the outstanding difficulties that require statutory changes within the ocean shore permitting program: a one-size fits all permit; unworkable timelines and an inflexible fee structure.

Today, I will share with you a background of OPRD's responsibilities on the ocean shore, the role of the ocean shore permitting program, issues we have identified within the program, and how HB 2925 attempts to resolve those issues.

## Background

Since the establishment of the Beach Bill in 1967, the public use of beaches along Oregon's 362-mile-long coastline has been protected. To ensure this, the ocean shore from the statutory vegetation line, or upland vegetation line, to the extreme low tide is managed as a state recreation area by OPRD.

The department is charged with the protection and preservation of the recreational, scenic, natural and other resource values found on Oregon's Ocean Shore. Any improvement or alteration to the Ocean Shore seaward from the vegetation line requires a permit (ORS 390.640).

OPRD administers a permitting program for activities on the Ocean Shore including:

- Construction of shoreline erosion protective structures,
- Driving on the beach where not otherwise allowed,
- Providing access to the beach.
- Installing cables and other infrastructure construction,
- Dune grading and vegetation removal, and
- Natural product removal

Permits are also needed for:

- Holding events on the beach, such as weddings and commercial filming,
- Scientific research and collection, and
- Other non-traditional uses of the ocean shore that are not recreational in nature.

The most visible, prominent, and controversial Ocean Shore Alteration Permits issued by OPRD are for the construction of shoreline protective structures (SPS) to control coastal erosion in order to protect upland development, OPRD process on average around 15 –25 permits a year related to these requests. On the other hand, OPRD recently discovered that a large number, around 60-80 per year, of smaller alterations projects, like beach accessways and dune grading have been occurring without permits or review through the full permit process.

In reviewing permits, the department must verify whether:

- There is adequate justification and need for the project to occur on and alter the ocean shore,
- The project represents the reasonable alternative with the least impact to public safety, public access, and scenic, recreational, natural and cultural resources,
- Public opinion supports the project.
- All local, state, and federal laws and regulations are complied with, including statewide planning goals.

### **Identified Issues**

In 1999, the Oregon Legislature expanded the Ocean Shore Program within Oregon Parks and Recreation Department to include areas previously under the jurisdiction of the Department of State Lands (DSL). While the merger resulted in a simpler regulatory environment in some areas, it also resulted in unanticipated issues that have not yet been addressed.

#### *One-size fits all Permit*

Requests received by OPRD range from large complicated and controversial projects with potential for significant impacts (e.g. shoreline armoring like rip-rap) to simple projects that may be inherently beneficial to ocean shore resources (e.g. public access maintenance and habitat enhancements) or that may have minimal or predictable impacts (e.g. remedial sand grading around homes).

Currently all alteration permit requests are subject to a single application process outlined in statute. The department does not have the flexibility to provide a different process based on the scale or complexity of the project.

#### *Unworkable Timelines*

The current timelines for reviewing permit applications outlined in statute do not set applicants, the public, or OPRD up for success.

Currently, the department is required to act on an application within 60 days after the date of receipt of a complete application. This 60-day review period includes a 30-day public review period. During the agency review staff must collect fees, review application for completeness, post public notices on the beach and online, coordinate with an applicant following public review, develop permit findings, and draft a permit. With only 60 days to complete often highly complicated steps and no authority to extend the review time, unresolved issues sometimes cause delays and compel OPRD to deny a permit when the clock runs out. This strict timeline does not allow for the agency to work with applicants to correct issues that are discovered during the review process.

In addition, the current statutory language related to the public notice period is somewhat vague and subjective. While OPRD has rules to better explain this, the proposed language more clearly defines the process and expectations. This should help OPRD consistently apply these standards into the future, providing affected landowners, the public, and other interested parties the opportunity to provide comments. This, along with the 120-day timeframe, will also facilitate better alignment with other agencies like DSL when proposals like cables, conduits, and other projects extend across both the ocean shore and DSL ownership of submerged lands west of the low tide line. The current DSL and OPRD approval timelines are completely different, incompatible, and do not allow for aligned or coordinated approval.

### *Emergencies*

While OPRD currently has a provision for responding to emergency situations, it is currently focused on shoreline protection and does not clearly provide direction on responding to other urgent and emergency situations that may occur, such as damage to permitted structures or public access ways. With expected increases in coastal hazards over the next several decades, the proposed language will provide OPRD additional flexibility to address these situations in rule.

### *Inflexible Fee Structure*

The ocean shore alteration permit fee structure is effectively one-size-fits-all that is not based on the range of project types on the ocean shore. The current fee was added to the program in 1999 and has not been reviewed since. The existing \$400 base fee often does not cover the costs of “carrying out the ocean shore program” as directed in statute.

Estimates for costs of managing all aspects of the permit (pre-application coordination, application review, public notice, drafting of permit findings and permit, preconstruction meetings, permit inspections, and permit close out) can include:

1. For normal projects, it typically takes 100-200 hours of staff time to manage each permit from initiation to completion.
2. For complex and contentious projects, it normally takes around 300 hours of staff time but can take over 500 hours over several months.

Statute does add a 3% administrative fee to all projects over with a construction cost of \$2,500—in theory recovering staff costs for more complex projects—but neither the percentage nor the base fee have increased since 1999. This has resulted in most applications being subject to both the base fee and the extra 3% based on construction value, which complicates and increases the fee for smaller and simpler projects since even small projects often cost at least \$2,500.

The table below provides an analysis of recent applications received and the cost to review versus the fees collected.

Average number of applications	Application Type	Costs			Collected fees (since 10/2024) <small>*complex based on 3 applications in 23-24</small>			Difference		
		Average	High	Low	Average	High	Low	Average	High	Low
60-80	Simplest application (i.e. remedial grading)	\$581.00	\$729.50	\$432.50	\$400.66	\$410.50	\$400.00	\$(180.34)	\$(319.00)	\$(32.50)
5-30	Simpler application (i.e. revetment repair)	\$1,170.50	\$1,524.50	\$816.50	\$715.00	\$1,030.00	\$400.00	\$(455.50)	\$(494.50)	\$(416.50)
2-27	Average application (i.e. New 50-100' revetment)	\$9,546.55	\$12,688.90	\$6,404.20	\$5,599.75	\$7,586.00	\$2,453.00	\$(3,946.80)	\$(5,102.90)	\$(3,951.20)
1-3	Complex application (i.e. large project, cable landings)	\$24,750.80	\$31,258.90	\$18,242.70	\$45,460.00	\$100,914.78	\$10,000.00	\$20,709.20	\$69,655.88	\$(8,242.70)

## HB 2925 proposed changes

### *General Authorization Permit*

For simpler and smaller projects on the ocean shore, HB 2925 would provide OPRD the authority to establish a General Authorization permit in rule as a simpler review process for projects with fewer potential impacts to the ocean shore. For example, this could include projects such as:

- Maintenance and repairs of permitted shoreline protective structures remedial grading activities,
- Restoration or enhancement of habitats for Western Snowy Plover habitats or other species.
- Control of invasive species and native species enhancement, and
- Improved management and maintenance of public access,

### *Permitting Timeline Consistency*

For the standard ocean shore alteration permit process covering the more complex and controversial project types, HB 2925 would move OPRD’s ocean shore permitting process and timeline to match one adopted by the Department of State Lands (DSL) for removal fill permits.

Historically, OPRD and DSL had similar permit review processes and timelines, however legislative changes helped DSL address many of the issues OPRD is now facing. HB 2925 would allow the application review process to take up to 120 days. In many cases it is likely permits will be issued well before that maximum period, but the agency and applicant could also negotiate an extension of the decision date if needed. This timeline will also facilitate better coordination of approval processes between OPRD and DSL for cables, conduits, and other projects that extend onto both the ocean shore and DSL ownership of submerged lands west of the low tide line or involve coordination under the Territorial Sea Plan.

### ***Flexible Fee Structure***

HB 2925 directs the Oregon State Parks and Recreation Commission to establish the ocean shore alteration permit fee structure in administrative rule to make it easier to adjust fees over time, address process changes more readily, and ensure fees correspond to program costs. This solution is modeled after HB 2238 (2023) which directed the Director of the Department of State Lands to adopt rules establishing removal-fill program fees, as well as outlining criteria that will be considered in developing the structure and amount of fees.

If HB 2925 were adopted, OPRD would undergo a robust rulemaking process, working with affected groups and the public to examine options for modernizing the ocean shore alteration program fee structure, proposing an updated fee structure for consideration, and ultimately adopt the new structure in rule. A Rulemaking Advisory Committee that includes representatives of the general public, local governments, and ocean shore conservation groups would be convened to assist in development of a draft rule, which will be circulated for public comment.

### **Conclusion**

As ocean conditions continue to change and development pressures grow, determining where to permit ocean shore alterations is even more challenging. While the department works to implement previous policy workgroup recommendations, improve program administration and clarify administrative rules, the statutory updates in HB 2925 are a necessary precursor to this effort.

With your help in passing HB 2925, we look forward to continuing to work with partners in coastal communities, state agencies, and conservation organizations to improve this vital program.