



Guide

The Oregon Department of State Lands (DSL) Permitting Process for Undersea Cables within the Territorial Sea

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1. Introduction

This Guide aims to provide information to the Department of Land Conservation and Development (DLCD), other state agencies, and relevant local and tribal governments about the Department of State Lands (DSL) permits' application, review, and authorization process for undersea cables within the Territorial Sea, as outlined in House Bill 2603 (2021).

House Bill 2603 requires reviewing and developing recommendations for amendments to Part Four of the Territorial Sea Plan that addresses the placement of telecommunication cables, pipelines, and other utilities in the territorial sea.

This information is intended to assist DLCD in a coordinated permitting process for the placement of undersea cables on state-owned submerged or submersible lands within the Territorial Sea between appropriate state agencies, and local and tribal governments.

The information in this Guide pertains to Removal-Fill permits required by Oregon's Removal-Fill Law ([ORS 196.795-990](#)) and Easements Authorization required by Oregon's Administrative Rules relating to fiber optic and other cables within the Territorial Sea ([OAR 141-083](#)).

For more information about easements authorization and the removal-fill permits, please contact:

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2. Permits of the Department of State Lands

2.1 Terminology

Terms used in this Guide have the same meaning outlined in federal and state laws, statewide planning goals, agency rules, guides, and programs.

“Cable” means a conductor of electricity or light with insulation or a combination of conductors insulated from one another.

“Cable Easement” is an authorization issued by the DSL designating the route where a cable is to be laid on state-owned submerged and submersible land within the Territorial Sea. A cable easement does not grant any other proprietary or other rights of use to the holder.

“Fiber Optic Cable” means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.

“Fill” means the deposit by artificial means of material at one location in any waters of this state.

“Landing” means the site on shore where a fiber optic or other cable is attached to land-based cable(s). A landing may consist of a beach manhole, receiving building, and associated equipment. If the landing is located on state-owned upland, additional authorization(s) shall be obtained from the Department or other land-owning agency (for example, Oregon State Parks) as well as other required approvals from state and local government agencies.

“Material” means rock, gravel, sand, silt, and other inorganic substances, and large woody debris, removed from waters of this state and any materials, organic or inorganic, used to fill waters of this state.

“Removal” means the taking of more than 50 cubic yards of material (or its equivalent weight in tons) in any waters of this state in any calendar year; or the movement by artificial means of an equivalent amount of material on or within the bed of such waters, including channel relocation. However, in designated ESH areas ([OAR 141-102](#)) and in designated Scenic Waterways ([OAR 141-100](#)) the 50-cubic-yard minimum threshold does not apply.

“Submerged Land” means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

“Submersible Land” means land lying between the line of ordinary high water and the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

“Territorial Sea” means the waters and seabed extending three geographical miles seaward from the coastline in conformance with federal law.

2.2 What type of permits are required?

Any person, who wants to place a cable in the Territorial Sea shall obtain **an easement** from the Department of State Lands (DSL) ([OAR 141-083](#)), and approval by the Land Board (composing the Governor, Secretary of State, and State Treasurer).

If a cable placement is proposed in waters of this state, does not meet an exemption, and meets requirements as removal or fill, **a removal-fill permit** is required from DSL ([ORS 196.795-990](#)). Note, this does not include earthwork on the beach between the extreme low tide and the line of statutory vegetation or actual vegetation, whichever is further inland. This area is regulated by Oregon Parks and Recreation Department through the Ocean Shores Permit Program (Figures 1-2).

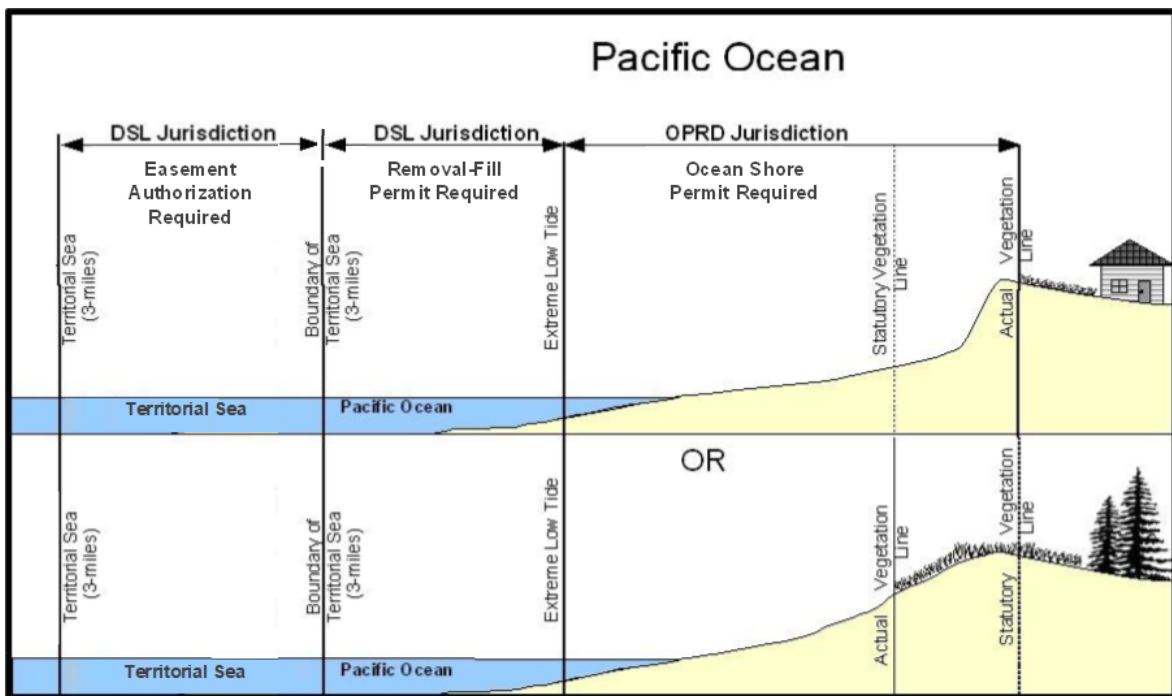


Figure 1. Jurisdiction of the Territorial Sea within the Pacific Ocean and the beach (between extreme low tide and upland)

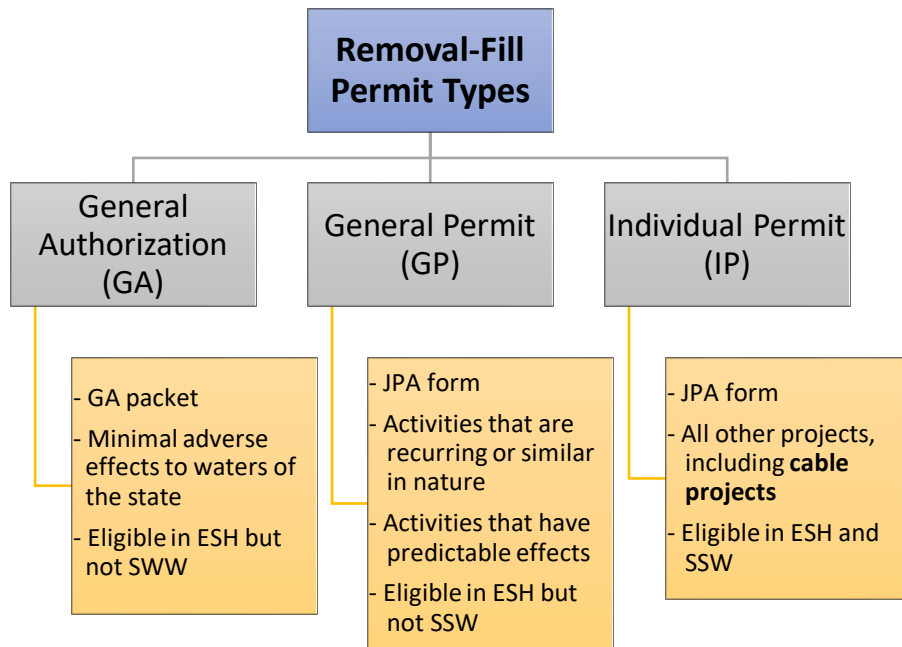


Figure 2. Types of Removal-Fill Permits

Notes: ESH - Essential Salmonid Habitat; SSW - State Scenic Waterways; JPA – Joint Permit Application

2.3 What does it cost to apply for permits?

Each application for a **cable easement** crossing the Territorial Sea shall be accompanied by a non-refundable deposit payable to DSL in the amount of **\$5,000**.

The law requires DSL to adjust **removal-fill and wetland delineation fees** every January 1st based on changes during the previous year in the Consumer Price Index (CPI)¹.

It does not affect the general authorization fees for certain projects, which are capped at no more than \$250. It also does not affect the fee for resubmittal of a wetland delineation report review fee (if the initial fee was paid), which costs \$100.

The CPI increased by 5.2% over the last reportable period (from the 2nd half of 2020 through the 1st half of 2021). Therefore, 2022 removal-fill fees are presented in the table below.

Note that DSL has a legislative concept for 2023 to remove removal-fill and wetland delineation fees from the Statute and have the Director set them through rulemaking.

Wetland Delineation Fee: \$500		Wetland Delineation Resubmittal Fee: \$100	
Removal Application Base Fees:		Removal Volume Fees:	
Public bodies and commercial operators:	\$357	Less than 500 cubic yards	None
Private operators: \$121		500 to 4,999 cubic yards	\$178
		5,000 to 50,000 cubic yards	\$357
		Over 50,000 cubic yards	\$535
Fill Application Base Fees:		Fill Volume Fees:	
Public bodies and commercial operators:	\$885	Less than 500 cubic yards	None
Private operators: \$357		500 to 2,999 cubic yards	\$178
		3,000 to 10,000 cubic yards	\$357
		Over 10,000 cubic yards	\$535

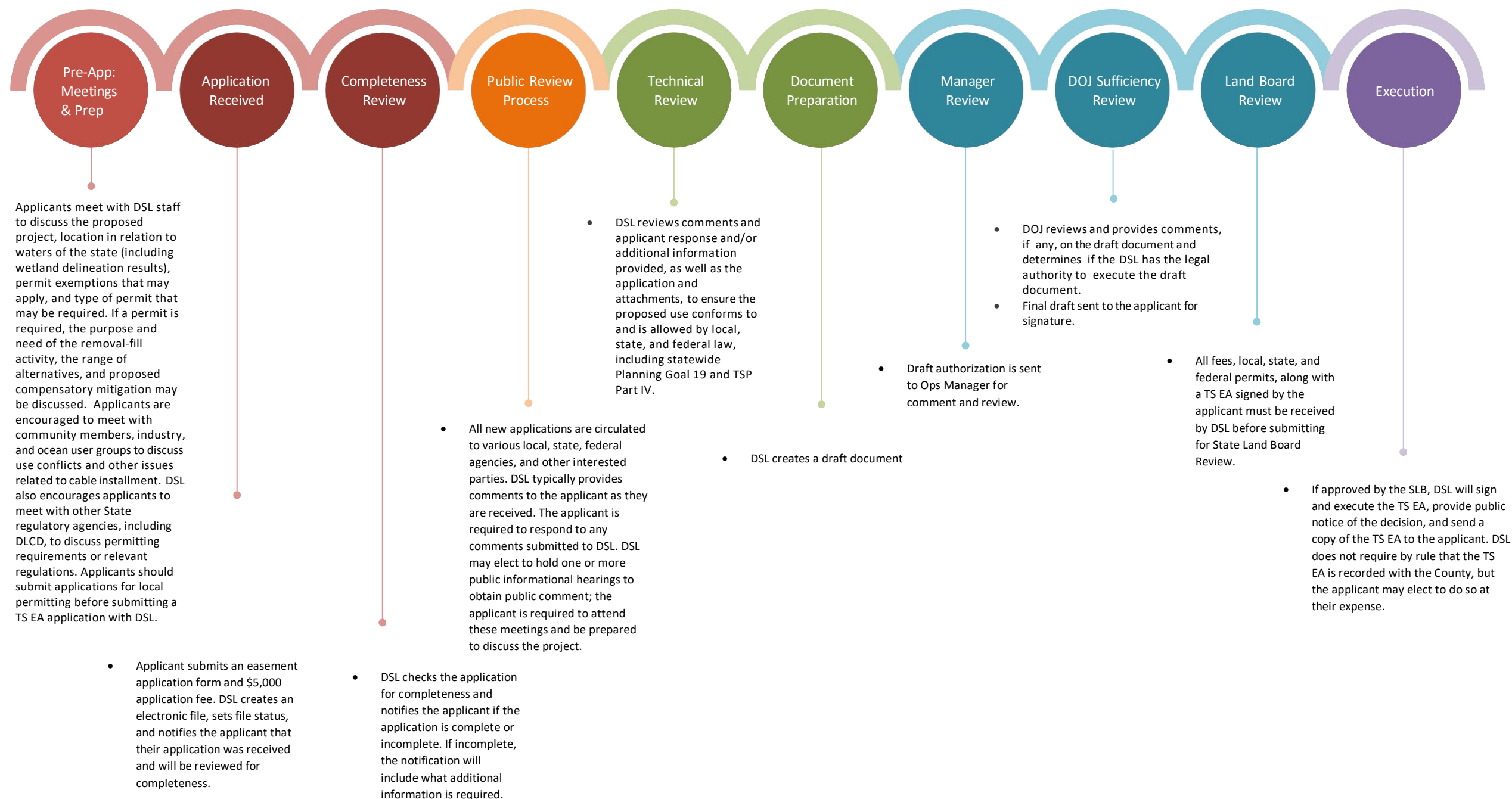
Applicant categories are defined as follows:

- “Commercial operator” means any person undertaking a project having financial profit as a goal.
- “Private operator” means any person undertaking a project for an exclusively non-income—producing and nonprofit purpose.
- “Public body” means federal, state, and local governmental bodies, unless specifically exempted by law, engaged in projects for the purpose of providing free public services.

¹ Consumer Price Index, West Region for All Items as published by Labor Statistics of the US Department of Labor

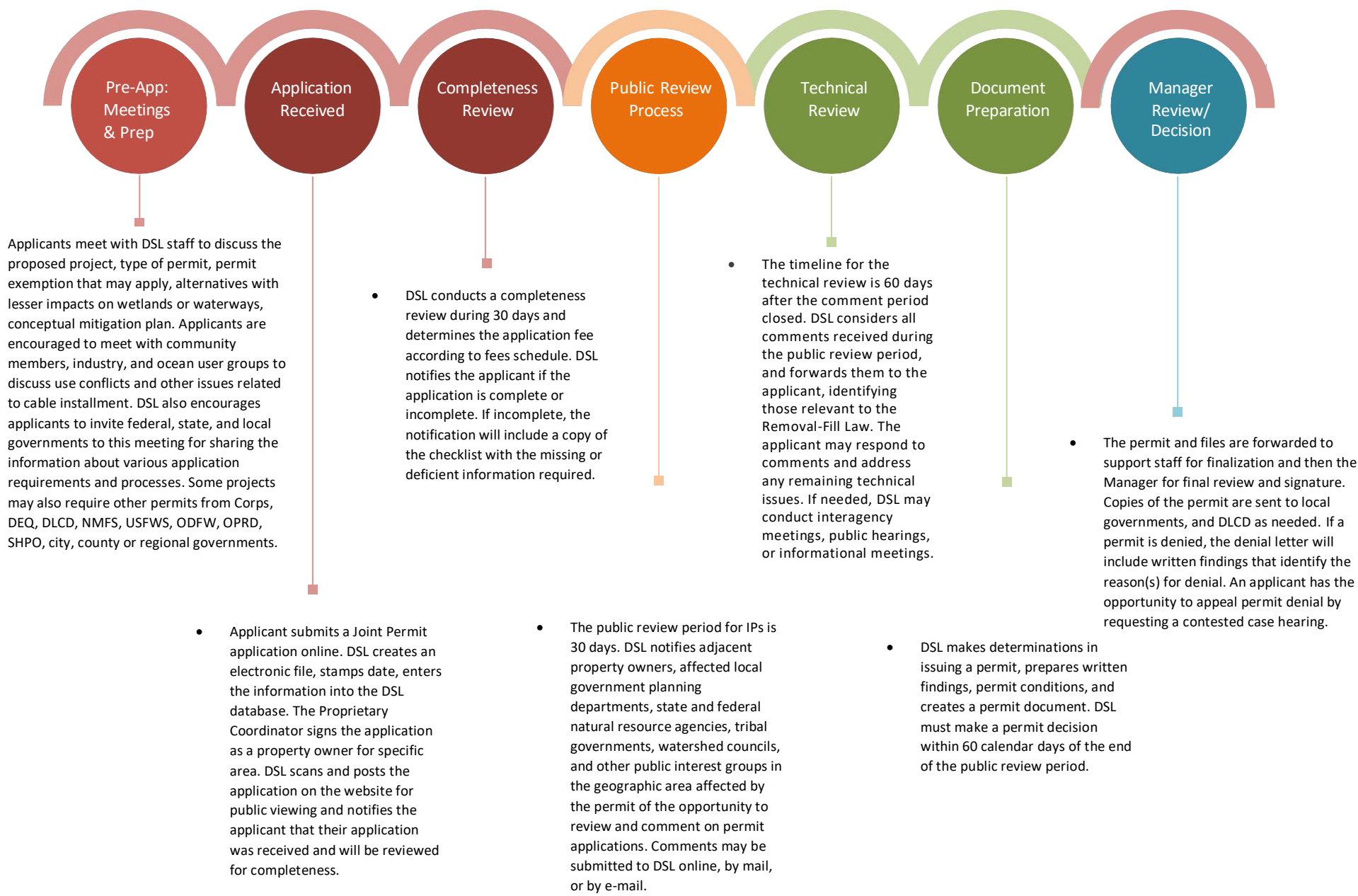
3. Territorial Sea Cable Easement Application Review Process

Aside from “Application Received” and “Execution,” each process step listed below typically takes between 2 to 4 weeks. However, some processes, such as “Department of Justice Sufficiency Review” or “Land Board Review,” can take longer. Applicants should be informed that applications, like Territorial Sea Cable Easements (TS EAs), which require the Department of Justice (DOJ) and Land Board Review, have a decision timeline that can extend beyond six months (180 days).

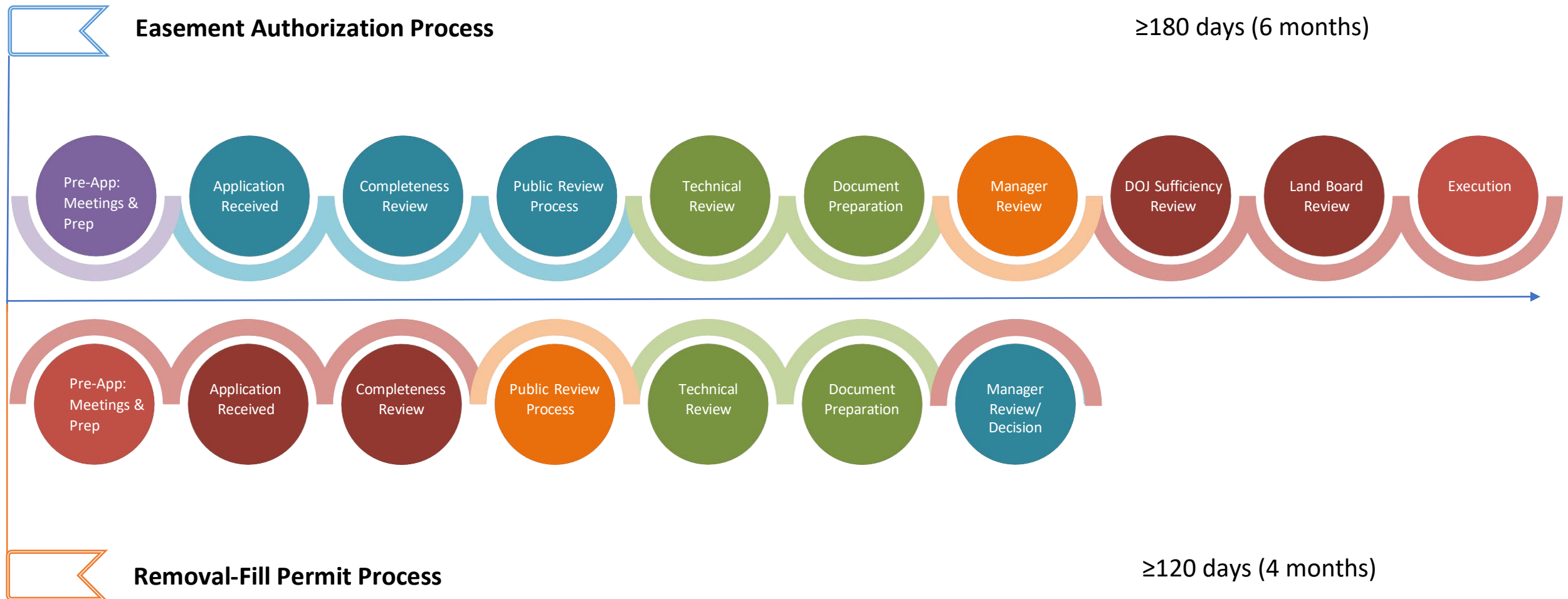


4. Removal-Fill Permit Application Review Process

The "Application Received" and "Completeness Review" process steps listed below for obtaining the Individual Permit (IP) typically take 30 days. Next, the "Public Review Process" takes 30 days, with follow-up steps of "Technical Review," "Document Preparation," and "Manager Review/Decision," which takes 60 days. Still, it could be extended for several months, depending on project circumstances, and needs to coordinate the removal-fill permit with the issuance of a proprietary authorization decision.



5. Timeframe and Duration of DSL's Permits



A Cable Easement issued by DSL is valid for an initial term of twenty (20) years. It may be renewed at the holder's option for an additional twenty (20) year term upon application to the Department. All cables are to be buried using the best available proven technology whenever conditions permit sufficient depth to minimize conflicts with other ocean users and industries and recognize the potential need to retrieve the cable for repair or removal.

A Removal-Fill permit is issued for a period of one to five (1-5) years based on construction timelines indicated in the application, or requested by the applicant. There is no need to keep a permit active if only mitigation monitoring is being conducted. The permit is specifically to authorize the removal-fill activity, and once that is complete, the permit can be expired. The mitigation conditions will remain in effect until the mitigation site is released by DSL, even after permit expiration.