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## State of Oregon's removal-fill permit requirements unaffected by new WOTUS definition

On April 21, 2020, the U.S. Environmental Protection Agency and the Department of the Army published the [Navigable Waters Protection Rule](#) to define “waters of the United States” (WOTUS). The federal agencies state “the final revised definition provides clarity, predictability, and consistency so that regulators and the public can understand where the Clean Water Act applies and where it does not.” [Additional FAQ regarding the rule.](#)

Oregon's Removal-Fill Law protects our state's water resources by requiring permits to remove or fill materials in waters or wetlands. The law applies to specific waters of this state, as defined in Oregon statute and rule. Waters of this state include the jurisdictional portions of the Pacific Ocean, tidal bays, tidal rivers, estuaries, non-tidal rivers, perennial and intermittent streams, lakes, ponds, wetlands and reservoirs. In addition, certain ditches and created wetlands and ponds are also considered waters of this state.

Therefore, changes to the federal WOTUS definition do not affect waters for which a state removal-fill permit is required.

The new WOTUS definition does, however, reduce the waters protected by federal regulations, including U.S. Army Corps of Engineers dredge and fill regulations. Some waters, such as ephemeral waterways and certain ditches, are not included in the state definition and are no longer protected under the new federal definition. Some projects, such as those that remove or fill less than 50 cubic yards of material in most\* waterways or associated wetlands, do not require a state permit and now no longer require federal permits for waters excluded from the new definition. [Additional FAQ regarding removal-fill permits.](#)

The new definition has other serious and potentially damaging implications for clean, safe and healthy water in Oregon and elsewhere. For more information, see the Oregon Department of Environmental Quality's [statement on the new rule.](#)

### For More Information

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*\* For activities in state-designated Essential Salmonid Habitat, State Scenic Waterways and compensatory mitigation sites, a state permit is required for any amount of removal or fill.*