

Oregon House Bill 2437 and Agricultural Channel Maintenance

What It Is, What It Does, and What It Does Not Do



What is HB 2437?

House Bill (HB) 2437, signed by Governor Brown on Aug. 9, 2019, introduces a simpler regulatory process to remove sediment from seasonally dry, traditionally maintained ditches and streams ('channels') that promote agricultural drainage. Where a new permit is required, this new regulatory approach creates a notice-based process that landowners will use prior to working in dry channels. The new notice applies only to seasonally dry channels that have been traditionally maintained for agricultural drainage and serviceable in the past five years. By filing the notice, landowners agree to a set of conditions that protect and minimize impacts to water quality, wetlands, and fish and wildlife habitat. The Oregon Departments of Agriculture (ODA), State Lands (DSL), and Fish and Wildlife (ODFW) are working together to implement the legislation.

To implement HB 2437, the agencies need to develop and adopt new Oregon Administrative Rules (OARs) and create the notification process. Until the agencies complete these necessary steps, landowners should not remove sediment from dry channels or work in wetlands without contacting DSL. See contact information on the other side.

What HB 2437 Does

Instead of applying for a permit from DSL to remove sediment from seasonally dry, traditionally maintained regulated ditches and intermittent streams, landowners will file a notice with ODA. (Note: Regulated ditches are true human-made conveyances

and include those constructed through wetlands and connected to a stream. Channelized or redirected streams are still streams.) The landowner will fill out a notice form with the location(s) and amount of sediment that will be removed, and other required information. By filing the notice with ODA, the landowner agrees to abide by the set of required conditions and practices. The required conditions in the new notice apply to channel shape, vegetation, and presence of water; timing of work; equipment usage and location; wetland and waterway impacts; and others. The required conditions protect water quality, wetlands, and fish and wildlife habitat.

Once completed, the new notice for dry channel maintenance will allow a landowner to remove up to 3,000 cubic yards (cy) per linear channel mile over a five-year period.

Since HB 2437 changes the process from a permit review by DSL to a notice-based process managed by ODA, the agencies are developing a new process. This notice-based process will make it easier for landowners to remove sediment that has built up in dry channels.

As part of the new process, ODA and ODFW will review submitted notices for sufficiency, and will determine if additional conditions are needed before ODA certifies the notice.

What HB 2437 Does Not Do

HB 2437 does not allow landowners to begin any work in a channel or a wetland without a permit from DSL,

See HB 2437:
[https://oda.direct/
AgChannelMaintenance](https://oda.direct/AgChannelMaintenance)



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until ODA and DSL complete the required rulemaking and develop the notification process. There may be exemptions, so contact DSL before starting any work.

HB 2437 does not allow the conversion of wetlands to nonwetlands without a permit from DSL. The bill does allow temporary storage of a greater volume of sediment spoils on farmed or ‘converted’ wetlands along the maintained channel, if done in a manner that protects water quality. However, it does not change any other existing requirements for impacts to wetlands.

Channels designated by DSL as “Oregon essential indigenous anadromous salmonid habitat” (OAR 141-102-0030) are not eligible for the notice-based process.

Ditch channel maintenance that currently does not require a permit (it is not regulated) will not require a notification.

Looking Ahead: Next Steps for Implementing HB 2437

Outreach and Education: ODA, DSL, and ODFW are working together on outreach and education. This includes informing the public of the new program, coordinating on rulemaking, and soliciting input from a wide range of interest groups to facilitate the successful implementation of this new program based on the legislative intent of HB 2437.

New OARs and Notice-Based Tools:

New administrative rules are necessary to implement HB 2437. Adoption of these rules is targeted for spring 2020. The agencies will be establishing the new notification process, including forms and guidance.

Phased Implementation: This is a new program that the agencies will initially implement in a phased approach, with opportunities for public engagement. The agencies need to complete these steps prior to a landowner filing a notice with ODA and removing sediment from an eligible dry channel. The agencies anticipate that the first phase of implementation will be available for some landowners in a limited geographic area by mid-2020.

For More Information

For additional information, including how to work in channels safely and legally, see:

ODA Agricultural Channel Maintenance information:
<https://oda.direct/AgChannelMaintenance>

DSL Agricultural Channel Maintenance Rulemaking information: **www.oregon.gov/dsl/Laws/Pages/Rulemaking.aspx**

To sign up to receive email updates, go to
<https://oda.direct/AgChannelUpdates>

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