

Agricultural Drainage Channel Maintenance

Request for Variance from Mandatory Conditions OTHER THAN Regional Dry Maintenance Period

11/2021

OREGON DEPARTMENT OF AGRICULTURE | OREGON DEPARTMENT OF STATE LANDS
OREGON DEPARTMENT OF FISH AND WILDLIFE

Submittal of this form does not guarantee acceptance of your request. Both the Oregon Department of Agriculture (ODA) and Oregon Department of Fish and Wildlife (ODFW) will review the variance for eligibility and to determine if any additional conditions are needed to protect water quality, fish and/or wildlife.

To be filled out by the responsible person/party

Name of landowner/business name/water district: _____

Contact name: _____

Mailing address: _____

Phone: _____ Email: _____

CONTACT US

Oregon Department of Agriculture

Brittany Mills,
Program Specialist:
971.218.1409
brittany.mills
@oda.oregon.gov

Oregon Department of State Lands

Contact the Aquatic
Resource Coordinator by
county, 503.986.5200,
[www.oregon.gov/dsl/WW/
Pages/WWStaff.aspx](http://www.oregon.gov/dsl/WW/Pages/WWStaff.aspx)

Oregon Soil and Water Conservation Districts (SWCDs)

[https://oda.direct/
SWCDDirectory](https://oda.direct/SWCDDirectory)

FOR MORE INFORMATION

Email:
agchannelmaintenance
@oda.oregon.gov

Website:
[https://oda.direct/
AgChannelMaintenance](https://oda.direct/AgChannelMaintenance)

Sign up for updates:
[https://oda.direct/
AgChannelUpdates](https://oda.direct/AgChannelUpdates)

For ODA use only

Notice #: _____ Date received by ODA: _____ Date to ODFW: _____

Channel or Receiving Stream: _____

ODA initial review

ODA reviewer: _____ Complete Incomplete

ODA comments:

Final ODA decision

Decision Date: _____

Grant variance Deny variance Grant variance with additional conditions

Recommendations and additional conditions:



Variance Request

To be filled out by applicant

A. Attach an aerial photo(s) that identifies:

1. Location of the activity along the channel affected by the proposed variance, and
2. Proposed location(s) for placement of material removed from the traditionally maintained channel if different from the Notice. If transported offsite, provide latitude/longitude in format of 4x.xxxxx; -1xx.xxxxx.

B. List the number of each Mandatory Condition (Page 5) for which you are requesting a variance. *ODA is unlikely to grant variances for #4, 5, 7, 9, 10, 11, 12, 13, and 16.*

For each Mandatory Condition you list, describe 1) why a variance is being sought, 2) the alternative actions you will take, 3) how each alternative action will protect water quality and prevent erosion, and 4) how the alternative(s) will protect, maintain, or improve channel conditions for fish and wildlife (for example: protect and/or replant streamside vegetation, decrease streambank slope and revegetation). For a variance from Mandatory Condition No. 2 (Regional Dry Maintenance Time Periods), use the form specifically developed for that request.

C. Describe the consequences to your operation or water district if the variance is not granted.

Mandatory Notice Conditions (OAR 603-095-5030)

- (1) A traditionally maintained channel must be dry before the commencement of any removal activities in the channel. If there is standing water in the channel that is due to a single rain event and the presence of the water is not indicative of a stream, a person must request a variance on a form provided by the Oregon Department of Agriculture prior to initiation of channel maintenance activities.
- (2) A person must begin and complete activities that require removal of material from the traditionally maintained channel during the applicable regional dry maintenance time period, as designated by the Oregon Department of Fish and Wildlife, for the region where the traditionally maintained channel is located.
- (3) The body of any motorized equipment that is used to conduct removal-fill activities must be operated from the streambank or bank of the channel, with only the bucket of the motorized equipment that actively removes material operating within the channel.
- (4) Any excavation of the bottom of the channel must be on a smooth grade and in a manner that does not create depressions or grade changes within the channel.
- (5) Maintenance activities must be conducted in a manner that minimizes new erosion in the channel.
- (6) Removal of woody vegetation must be limited to the minimum amount needed to complete the maintenance activity.
- (7) Revegetation must occur for any riparian areas that serve as a buffer adjacent to the channel and that experience vegetation loss as a result of the maintenance activity. This condition is satisfied whether revegetation occurs naturally or after seeding. Revegetation shall result in adequate ground cover to keep the banks stable and prevent erosion.
- (8) All work related to the maintenance activity must be conducted only from one bank of the channel, on either the north or east side, when practicable, to minimize the ecological impacts of the maintenance activity.
- (9) Motorized equipment used for maintenance activities must utilize existing crossings, if crossing the channel is necessary to complete maintenance activities.
- (10) Maintenance activities must begin at the most upstream location of the traditionally maintained channel and progress downstream.
- (11) Material that is removed from the channel may be temporarily placed in a wetland or converted wetland located adjacent to the channel to dry, provided that the material must, no later than one-year after the date that the maintenance activity was completed, be moved uplands or be spread in a thin layer outside the riparian area that serves as a buffer adjacent to the channel. Material may only be permanently spread in a thin layer where agricultural activity presently and historically has occurred.
- (12) Maintenance activities may not result in converting wetlands to uplands and may not materially change the depth or functionality of a wetland. The determination of functionality of a wetland will vary for each property, but may include fish and wildlife habitat, hydrologic and water quality functions.
- (13) Impacts to wetlands caused by channel maintenance activities must be temporary and must be limited to wetlands adjacent to the channel, impacts related to accessing the site to conduct removal activities in the channel, and the removal of material and the disposal of material.
- (14) Maintenance activities may not result in a change in location of a channel through the digging of a new channel and the diversion of the flow from the old channel into the new channel. Maintenance activities may not cause or result in increasing the width or depth of the channel beyond the width or depth to which the channel has routinely been maintained to facilitate drainage.
- (15) Maintenance activities must not result in alteration of any existing inlet or outlet connections with other waterways.
- (16) The temporary placement of material along one side of the traditionally maintained channel must include gaps or flow paths to allow channel floodwaters to access the fields upland of the channel.