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8833 Ralston Road

Arvada, CO 80002

303.431.6422

[info@coloradocattle.org](mailto:info@coloradocattle.org)

[www.coloradocattle.org](http://www.coloradocattle.org)



**Ag Water NetWORK | [www.agwaternetwork.org](http://www.agwaternetwork.org)**

**WEBINAR Highlights – Colorado’s Dredge and Fill Regulation 87**

Recorded April 7, 2026

**Presenter:** Scott Garncarz, CDPHE Water Quality Control Division, Dredge and Fill Unit. Email: [cdphe\\_df\\_wqcd@state.co.us](mailto:cdphe_df_wqcd@state.co.us)

- The Sackett vs. EPA Supreme Court ruling in 2023 narrowed the definition of “waters of the United States.”
- Colorado passed House Bill 24-1379 to address “gap waters” that were perceived to be no longer protected under federal jurisdiction.
- HB 24-1379 led to the development of Regulation 87 under the Colorado Department of Public Health and Environment (CDPHE) Dredge and Fill protection unit.
- Regulation 87 – Colorado’s Dredge and Fill Regulation - became effective on April 1, 2026. It covers a smaller portion of state waters compared to federal waters.
- Material that is removed from and/or placed in state waters may be considered “dredged and fill material.”
- The Water Quality Control Division regulates dredge and fill activities in state waters under Regulation 87 when the U.S. Army Corps of Engineers determines that the water feature(s) do not meet the definition of waters of the U.S. (WOTUS).
- Some activities and features are exempt or excluded from regulations. Exemptions apply to certain types of activities, regardless of the type of water feature involved. Exclusions apply to certain types of water features, regardless of the type of activity involved.
- An example of an Exempt activity includes “construction or maintenance of ... farm ponds, stock ponds, farm lagoons, springs (i.e., maintained springs), recharge facilities located in uplands, and irrigation ditches or acequias (as defined in subsection 87.3(4)(g)(v)), except that new work to construct or any work to extend, expand, or relocate an existing irrigation ditch or acequia for municipal or industrial purposes is not an exempt activity.”
- An example of an Excluded water feature includes “wetlands that are adjacent to a ditch or canal and supported by water in the adjacent ditch or canal.”
- If an exemption or exclusion applies to your project, you are not required to obtain an authorization from the division.
- The U.S. Army Corps of Engineers still has jurisdiction over waters of the U.S. (WOTUS) and issues 404 permits. Similar to permits, Colorado now issues “authorizations” for some dredge and fill activities not covered by the new WOTUS definition.
- Colorado will be issuing three (3) types of authorizations: 1) temporary, 2) general, 3) individual. An individual permit may take up to two years to get issued.



- General authorizations will be issued starting September 1st, 2026.
- Fee structure for consulting services: CDPHE Dredge and Fill Protection Unit staff will provide two (2) hours of free consultation on a given project. Beyond that they will charge \$180 per hour, with flexibility in charging for specific project-related questions. Decisions about charging for consulting services would be made on a case-by-case basis, emphasizing transparency and avoiding unexpected fees.
- Colorado Dredge and Fill Regulation Website: <https://cdphe.colorado.gov/dredge-and-fill>
- The program is continuing to update its FAQ document on the website with answers to questions received from meeting participants. Questions are welcomed and can be sent to [cdphe\\_df\\_wgcd@state.co.us](mailto:cdphe_df_wgcd@state.co.us).