

Small Suction Dredge Mining in Idaho The Clean Water Act (NPDES) General Permit

Presentation to the Natural Resources Interim Committee of the Idaho Legislature
August 6, 2013



Overview for Today

- **Clean Water Act NPDES**
 - Scope of Program
 - Roles with Idaho

- **Small Suction Dredge Mining General Permit**
 - Why is a Permit required?
 - History and current status
 - Areas covered / Not covered
 - What the Permit Requires (BMPs)
 - EPA's Compliance Strategy
 - More Information/Contacts

Clean Water Act NPDES Program

(NPDES = National Pollutant Discharge Elimination System)

- **Scope (2-types of NPDES permits):**
 - **Individual Permit:**
 - Examples: Municipal WWT plants, Food processing plants, Large Mines
 - Nearly 200 statewide
 - **General Permit:**
 - For a specific, similar category of activity
 - For large geographic area (statewide)
 - Examples: Pesticides Applications, Large CAFOs, Aquaculture Facilities, Small Suction Dredge Miners, Stormwater (Industrial and Construction)

Clean Water Act (CWA)

- **Key Roles for Idaho DEQ:**
 - **Sets Water Quality Standards, consistent with the CWA**
 - **Develops TMDLs to address waters where state standards are not being met**
 - **401 Certification: Reviews EPA NPDES permits, to ensure state standards will be met**
- **Key Roles for EPA Region 10:**
 - **Develop CWA/NPDES permits in Idaho**
 - **Conducts Compliance Inspections**
 - **Enforces CWA/NPDES permit violations**

Small Suction Dredge Mining General Permit

Why is a Clean Water Act (CWA) Permit required?

Goal of the CWA: "To restore and maintain the chemical, physical, and biological integrity of the nation's waters."

- CWA Section 301(a): Except as in compliance with this section and sections 302, 306, 307, 318, **402** and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.
 - **Section 301 requires a permit for the discharge of pollutants to waters of the United States.**
 - **Section 402 contains the National Pollutant Discharge Elimination System (NPDES) Permitting Program**

Small Suction Dredge Mining General Permit



- **Suction Dredge Mining results in a point-source discharge to surface waters**
- **The term “pollutant” is defined in CWA § 502(6):** The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water (emphasis added).

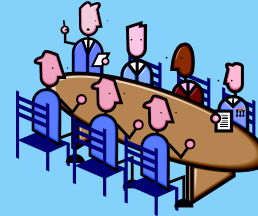
History and Current Status

- 2010 - Developed and published 1st draft of permit, took comments, held public meetings in Idaho**
- 2012 - Incorporated comments from 2010, drafted 2nd permit**
 - Public Notice issued May 1, 2012, 30-day comment period**
 - Completed Endangered Species Act consultation with U.S. Fish and Wildlife Service, National Marine Fisheries Service**
 - Coordinated with Tribes**
 - 401 Certification from Idaho Dept of Environmental Quality**
 - Responded to 122 different comments**
 - Postcards & emails sent to 1000+ miners announcing the proposed permit with link to the Public Notice online**

History and Current Status

2013 – Meetings and other outreach:

- March 20 – Tribes
- March 26 – Congressional Staff
- March 28 – State and Federal Partners
(Interagency Meeting with IDL, BLM, IDEQ, IDWR, IDFG, USACE, USFS, USFWS, NMFS)
- April 4 -- Final permit was published in the Federal Register. More postcards and emails announcing the final permit and new webpage with information
- April 9 – Webinar for Mining Community, Idaho Gold Prospector's Association, Boise Chapter
- May 6 – Permit took effect (available for miners to apply)
- August 2 – deadline for appeal to the 9th Circuit Court
- Ongoing – One-on-one emails, meetings, phone calls with miners to facilitate permitting process



General Permit Coverage is available, except in these 4 categories

- 1. Nationally Protected Areas:** National Parks System Units (i.e., Parks and Preserves), National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, National Wilderness Areas, National Wild and Scenic Rivers System
- 2. Areas designated as critical habitat under the Endangered Species Act (ESA),** and additional areas listed in the permit where species that are either listed as threatened or endangered under ESA are known to occur.
- 3. State Protected Waters:** Withdrawn River Segments, State Protected Rivers, Sediment/Mercury Impaired Streams
- 4. Tribal Reservations**

Areas not covered by the General Permit, unless...*

1. Nationally Protected Areas:

- National Parks System Units (i.e., Parks and Preserves)
- National Monuments
- National Sanctuaries
- National Wildlife Refuges
- National Conservation Areas
- National Wilderness Areas
- National Wild and Scenic Rivers System



*** ...unless the land manager grants permission, and such documentation is provided with the NOI (miner's application).**

Areas not covered by the General Permit, unless...*

2. **Areas designated as critical habitat under the Endangered Species Act (ESA)**, and additional areas listed in the permit where species that are either listed as threatened or endangered are known to occur.



* ...unless the USFWS or NMFS have provided a determination to another agency for suction dredging in a specific area, and a miner includes that determination with their NOI/application.

Areas not covered by the General Permit

3. State Protected Waters:

- Withdrawn River Segments
- State Protected Rivers
- Sediment or Mercury

Impaired Streams

- not meeting Idaho water quality standards)

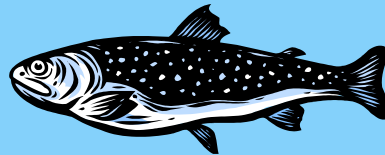
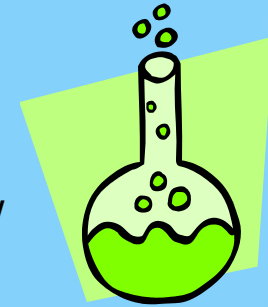


4. Tribal Reservations

What the Permit Requires: Best Management Practices (BMPs)

– Chemical

- Silt and Clay Areas –avoid to reduce increase in turbidity
- Mercury –Instructions for collection, disposal
- Refueling and Hazardous/Deleterious Material Storage –100' distance
- Sediment Plume –must not exceed 500' in length



– Biological

- Spacing between operations – 800' distance
- Fish Passage, Spawning Fish and Spawning Habitat – 500' distance from
- Invasive Species – cannot house, must decontaminate
- Screening Requirements (intake)

Best Management Practices (BMPs)

– Physical

- Stream Channel – may not alter
- Erosion, undercutting of stream bank not allowed
- Dams or Diversions (not authorized under Section 402)
- Boulders and Natural Obstructions –move by hand only
- Mechanized Equipment –not allowed below Ordinary High Water
- Refueling and Hazardous/Deleterious Material Storage –100' distance
- Silt and Clay Areas –avoid to reduce increase in turbidity



EPA's Compliance Strategy



2013 and 2014:

- Outreach and education (working with miners, land management agencies, and local law enforcement)
- EPA field presence, responding to tips/complaints
- Civil and criminal penalties possible for egregious violations

Other Important Information



- There is no fee associated with the General Permit.
- The NOI/application is one-page (most miners list multiple locations, using latitude/longitude for each).
- The EPA permit is linked to the dredge and its location(s) of use.
- While EPA's permit does not reflect the exact same list of open and closed waters as IDWR, there are common open areas.
- EPA is coordinating with IDWR and the land management agencies on permit implementation.
- EPA has worked hard to provide timely review and processing of miner's NOIs/applications. For 2013 season to date, the approval/denial ratio is about 1:4. That ratio is expected to improve in 2014 as more miners become familiar with the process.
- EPA is required to reissue the General Permit in 5 years (new data/knowledge will be incorporated).

More Information/Contacts

Website Address:

<http://yosemite.epa.gov/r10/water.nsf/NPDES+Permits/idsuction-gp>

Region 10: the Pacific Northwest

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Idaho Small Suction Dredge Mining General Permit

On April 4, 2013, EPA issued an NPDES General Permit for small suction dredge operations in Idaho. To comply with the Clean Water Act, operators of small suction dredges must obtain NPDES permit coverage prior to operation. The general permit covers small suction dredges with an intake nozzle size of 5 inches in diameter or less and with equipment rated at 15 horsepower or less.

The general permit places conditions on the discharge of rock and sand from each mining operation to protect water quality and aquatic resources. These conditions include best management practices and prohibited areas.

The general permit is effective May 6, 2013 and will expire on April 30, 2018.

How to get permit coverage:

1. Read the [permit](#) (PDF) (41 pp, 570K).
2. Confirm that the waterbody you wish to work in is eligible for both a permit from the Idaho Department of Water Resources and the EPA for small suction dredge mining. Be aware that you will need both permits before working in a waterbody.
 - [Map of allowed small suction dredging areas in northwest Idaho](#) (PDF) (1 page, 4.6MB).
 - [Map of allowed small suction dredging areas in southeast Idaho](#) (PDF) (1 page, 2.4MB).
 - [Map of allowed small suction dredging areas in southwest Idaho](#) (PDF) (1 page, 2.7MB).
 - [Areas excluded from small suction dredge mining in Idaho](#) (PDF) (1 page, 2MB).
 - [Check IDWR Recreation Mining Program Instructions](#). [EXIT Disclaimer](#)
3. If the [areas excluded from small suction dredge mining in Idaho](#) (PDF) (1 page, 2MB) identifies critical habitat for or the presence of listed species in an area you'd like to operate, please see page 5 (Section I.D.4.) of the [permit](#) (PDF) (41 pp, 570K) for information on the requirements for an Endangered Species Act (ESA) determination. The following fact sheets were provided by the National Marine Fisheries Service regarding ESA determinations for this permit, a process that's also conducted by the U.S. Fish & Wildlife Service:
 - [ESA Fact Sheet](#) (PDF) (2 pp, 329K)
 - [ESA Questions and Answers](#) (PDF) (2 pp, 291K)
4. If eligible under both permitting programs, fill out and submit a [Notice of Intent information sheet and follow mailing instructions](#) (PDF) (2 pp, 107K).
5. Comply with state law by obtaining permit authorization from the Idaho Department of Water Resources.
6. Wait for written authorization from the EPA before operating.
7. Remember to submit an [annual report](#) (PDF) (1 page, 67K).
8. Need more information or assistance? Please [contact us](#).

Contacts

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Documents and Information

[Notice of Intent Form](#) (PDF) (2 pp, 107K)

[Annual Report Form](#) (PDF) (1 page, 67K)

[Final Small Suction Dredge Mining General Permit](#) (PDF) (41 pp, 570K)

[Suction Dredge General Permit Fact Sheet](#) (PDF) (44 pp, 351K) - 2012

[Response to comments](#) (PDF) (40 pp, 240K)

[Federal Register Notice](#)

[April 9, 2013 Webinar Presentation](#) (PDF) (34 pp, 1.2MB)

[Idaho NPDES General Permits](#)

Links to:

- Final Permit
- Maps of open/closed waters
- EPA Point of Contacts
- Notice of Intent form
- Annual Report
- EPA's Response to Comments

More Information/Contacts

- EPA Idaho Operations Office Director
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