



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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**Questions and Answers on EPA's Regulation of
Suction Dredge Operations in Idaho
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Q: *Do I need a permit from EPA in order to operate a suction dredge?*

A: Yes. Anyone that operates a suction dredge within waters of the United States, including the State of Idaho, is obligated to obtain a permit from EPA. These permits, called NPDES permits, or National Pollutant Discharge Elimination System permits, are required by the Clean Water Act (CWA). The CWA prohibits the discharge of pollutants from a point source to waters of the U.S. without a permit. The NPDES program was set up to implement this program. EPA implements this program in Idaho, Alaska and several other States.

This is not a new requirement. The permitting program has been in place since the early 1970s, and EPA has long regulated suction dredge mining activities in the State of Alaska. The obligation to obtain an NPDES permit applies regardless of the size of the suction dredge.

Q: *What is involved in obtaining an NPDES permit from EPA?*

A: In response to a permit application, EPA can issue either an "individual permit" or a "general permit" for a class of similar facilities. EPA must follow a specific process for issuing permits that includes formal public involvement, consultation with tribal governments, and consultation with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) on impacts to species listed under the Endangered Species Act (ESA). The State of Idaho's Department of Environmental Quality (DEQ) must also review the permit and certify that it adequately protects water quality. Each of these steps takes time.

EPA is developing a "general permit" for suction dredging operations of 5 inches (in nozzle diameter) or less. We intend to issue this general permit in 2008. Once a general permit is issued, operators may receive authorization to operate by filing a form called a "notice of intent" (NOI) with EPA and complying with all terms and conditions of the general permit. We intend to work with Idaho Department of Water Resources (IDWR) to advise operators when the general permit is available. For suction dredge operations greater than 5 inches or those not authorized by the general permit, the operator must apply for an individual permit. However, processing an individual permit application would take time and is a lower priority for EPA.

Q: *What if I already have a permit from the Idaho Department of Water Resources or from another agency?*

A: EPA is the only agency that issues NPDES permits in Idaho. Miners wishing to operate a dredge in Idaho need to acquire an NPDES permit. Permits issued by other agencies do not provide the necessary legal authorization for operators to discharge into surface water that is required under the Clean Water Act.

Q: *Is there any way I can operate in the meantime? Is there anything I can do to make the process go faster?*

A: Not legally. EPA has no discretion in this regard, and cannot authorize use of a dredge by any means other than by issuing a permit. EPA has identified the recreational suction dredge permit as a high priority, and we are working to issue this permit in 2008.

Q: *What if I go ahead and operate my dredge without getting the EPA permit first?*

A: Operating a suction dredge without a permit is a violation of the Clean Water Act. There is the potential for significant penalties for such violations. In addition, suction dredge operators need to be aware that the CWA contains provisions for citizen lawsuits. This means that other parties can take legal action for violations of the CWA even if EPA decides not to pursue a legal action.

Q: *What types of requirements would be included in a permit?*

A: The specific requirements would be developed to protect water quality, and aquatic resources. It's likely that a permit would include restrictions on timing of operations, where operations can take place, and the size of dredge, as well as requirements for best management practices (BMPs) for protecting aquatic resources, and monitoring.