



# National Pollutant Discharge Elimination System Permit Evaluation Report

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**Proposed Action:** 700PM NPDES general permit modification

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**Permit Category:** General Permit

This general permit modification provides coverage under the National Pollutant Discharge Elimination System for four kinds of discharges:

1. Discharges from **motorized** suction dredges not exceeding 30 horsepower and suction hoses with inside diameters no larger than four inches in diameter that **do not operate in essential salmon habitat**. Operators seeking coverage for this type of discharge must apply for registration under the permit and registration must be approved by DEQ.
2. Discharges from gravity or siphon suction dredges with suction hoses with inside diameters no larger than six inches in diameter that **do not operate in essential salmon habitat**. Operators seeking coverage for this type of discharge must apply for registration under the permit and registration must be approved by DEQ.
3. Discharges from gravity or siphon suction dredges with suction hoses with inside diameters no larger than four inches in diameter that **operate in essential salmon habitat**. Operators seeking coverage for this type of discharge must apply for registration under the permit and registration must be approved by DEQ.
4. Discharges from other **in-water, non-motorized mining equipment or devices**. Operators seeking coverage for this type of discharge are not required to apply for registration but are required to comply with all applicable permit terms.

All other mining activities that discharge from a point source to surface waters of the state are prohibited unless authorized by an individual permit. NOTE: Hand panning is not considered to be a point source and is exempt from permitting requirements. Further, and as provided in Senate Bill 3, enacted in 2017, all motorized in-stream placer mining within the essential salmon habitat is generally prohibited.

**Source Location:** Statewide

**Effective Date:** May 7, 2018

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## Introduction

Suction dredge and non-motorized mining equipment are commonly used for in-water placer mining operations. A person may not discharge from a suction dredge or in-water non-motorized mining equipment without a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to the federal Clean Water Act. DEQ has been delegated authority by the U.S. Environmental Protection Agency (EPA) to issue NPDES permits in Oregon. This is a general permit that will be issued by order under Oregon Administrative Rule 340-045-0033.

This 700PM NPDES General Permit (Permit) allows and regulates the discharge of pollutants, including turbid water. Turbid water is a cloudy or muddy looking discharge consisting of stream water and bed material. It is discharged back into the receiving water from equipment used within state waters for recovering precious metals or minerals from stream deposits.

This is a permit modification. Modifications are made following public comment, which occurred Jan. 29, 2018 to Mar. 9, 2018. Modifications incorporate Enrolled Senate Bill 3, 2017 (SB3)<sup>1</sup> motorized in-stream placer mining requirements and prohibitions. In addition, DEQ’s newly designated Outstanding Resource waters of the North Fork Smith River<sup>2</sup> are not available for general permit coverage. Other clarifying changes include updated definitions and a process for a registrant to amend an application should a authorization for general permit coverage change.

## Senate Bill 3 Permit Modifications

### Cover page and discharges not authorized by this permit

In June 2017, Senate Bill 3 established new requirements and fees for motorized in-stream placer mining in Oregon. DEQ is modifying the permit to include Senate Bill 3 requirements. These modifications include increased and new fees, specification of information required on an application for registration and new operating requirements. Motorized in-stream placer mining is not allowed in Essential Salmon Habitat.

DEQ included a definition of Essential Salmon Habitat in the permit. This permit definition aligns with the definition in ORS 196.810(1)(g)(B), as further defined and designated by Department of State Lands rule, and connects the extents of essential indigenous anadromous salmon habitat that are in this rule, from the highest reaches to the lowest reaches as directed in Senate Bill 3. Should Department of State Lands change their rule to include new areas in essential indigenous anadromous salmon habitat, DEQ's integrated mapping tool will be updated to reflect this change and merge extents as required in Senate Bill 3. DEQ will also use the process in Schedule C condition 20 to inform any registrants of their need to amend their permit application if permit coverage is no longer available. See more on Schedule C below.

The cover page describes the scope of permitted activities and type of operation covered by this Permit.

Senate Bill 3 restricts equipment size of a motorized suction dredge and prohibits motorized in-stream placer mining in essential salmon habitat.

Equipment authorized to discharge under this Permit will include the following:

- Discharges from motorized suction dredges not exceeding 30 horsepower and suction hoses with inside diameters no larger than four inches in diameter that do not operate in essential salmon habitat.
- Discharges from gravity or siphon suction dredges with suction hoses with inside diameters no larger than six inches in diameter that do not operate in essential salmon habitat.
- Discharges from gravity or siphon suction dredges with suction hoses with inside diameters no larger than four inches inside essential salmon habitat.
- Discharges from other in-water non-motorized mining equipment or devices.

All other mining activities that discharge to surface waters of the state are prohibited unless authorized by an individual permit, except for hand panning which is exempt from NPDES permitting requirements. The terms motorized, gravity suction dredge, and siphon suction dredge are defined in the permit.

Discharges under this general permit are not authorized in certain areas. This general permit cannot authorize discharges from motorized in-stream placer mining including motorized suction dredges in essential salmon habitat. The section of the permit "DISCHARGES NOT AUTHORIZED BY THIS PERMIT" is modified to include this new restriction.

SB3 includes new application, renewal and annual permit fees. Starting in 2018, registrants will be required to pay an annual fee in order to maintain permit coverage. Previously permit applicants could register in any year during a permit term by submitting an annual fee or an applicant could pay for a full permit term. As such, the prior cover page included a permit coverage expiration date for each registrant. SB3 changes the fees for permit coverage so that having a permit coverage expiration date for each registrant on the cover page is not necessary. Information on fees and registration requirements is provided below.

### **Registration requirements**

Operators of suction dredges must register for permit coverage. This permit modification includes SB3 requirements for additional application requirements, increased fees and new fees for motorized suction dredges.

## **New Application Requirements**

DEQ approves each application for registration under a general permit prior to assigning permit coverage. SB3 requires an application for registration to include the name and address of the operator, geographic coordinates for a proposed mining operation, information on mining operation access and written affirmation that a review of cultural resource preservation material which includes best management practices has been completed.

Prior to modification of the permit, DEQ collected geographic coordinates for proposed mining operations by requesting latitude and longitude information. Applicants will continue to use DEQ's online mapping tool to provide information for a proposed mining location. DEQ will request latitude and longitude information that comprises an in-stream mining location. Registration for coverage is based on the information received in the application. Registrants must only be operating within the upstream and downcurrent latitude and longitude coordinates proposed in the application for permit coverage.

Prior to modification of the permit, an amended application was required when a mining location or the operation was changed. This permit modification provides a timeframe for a registrant to amend their application if authorization for permit coverage under this general permit changes. A mining location may need to change, for example, if a 303(d) list in effect as of January 1 of year includes new waterbodies. DEQ will notify a registrant that a 303(d) list affects their mining location, then the registrant will need to amend their application to exclude that location within 90 days of notification. DEQ will terminate general permit coverage if an amended registration is not received within the timeframe.

## **Mining operation access**

SB3 requires that a permit application contain information on access to the mining site location. Application for this permit will require an applicant to describe access to the mining site location by providing information on whether the access point is from a boat ramp, stream crossing/ford or access authorized by a land management authority.

## **Cultural resource preservation**

SB3 requires an applicant to review material that DEQ provides on cultural resource preservation, which include best management practices and provide written affirmation of that review with its application. DEQ sought input from the Oregon State Historic Preservation Office to develop a list of material for applicant review. This material will be available on line for review. The application will contain a statement that the material provided by DEQ was reviewed.

Material for review at [Oregon Parks & Recreation Department: Oregon Heritage: Archaeological Services](#) web page includes the following:

- Inadvertent Discovery Plan Template
- Bulletin 1: Private Lands
- FAQ: Archaeological Sites on Private Lands
- Bulletin 3: Public Lands
- FAQ: Archaeological Sites on Public Lands
- Preserving the Cultural and Historic Resources of Oregon Brochure
- Helping Them Home: The Need to Return Artifacts and Sacred Objects to Native American Tribes (video)

### **New and Increased Fees**

SB3 requires each person who registers a motorized suction dredge under the permit to pay fees. SB3 provides for an initial application or renewal of permit coverage fee of \$250, and a \$250 annual fee to maintain permit coverage.

DEQ will require an initial permit fee and the first annual fee at the same time for applicants not previously registered under this permit issued in 2015. For example, payment of \$500 will be required at the time the application for registration is submitted. The \$500 payment consists of \$250 for the initial application fee and \$250 for the first annual fee.

Because this permit was issued in 2015 there are two full calendar years remaining in the permit term. For the remaining two years, DEQ will determine fees based on previous registration under this permit. DEQ will require an annual fee from previous registrants in order to maintain coverage under this permit. Registrants that prepaid \$100 in 2015 for permit coverage through 2019 will be required to pay a prorated annual fee of \$210 for permit coverage in 2018 and \$250 annual fee for permit coverage in 2019. The prorated fee is the \$250 annual fee minus \$40 (\$20 prepaid for 2018 and \$20 prepaid for 2019). For registrants with previous permit coverage in 2015, 2016 or 2017 payment of an annual fee of \$250 will be required to maintain permit coverage.

Each year an annual fee payment of \$250 will be required to maintain permit coverage.

The annual fee of \$25 for gravity or siphon suction dredges is not changed by SB3. Table 70G, under OAR 340-045-0075 contains a fee of \$25 for annual permit coverage. Each year an annual fee payment of \$25 will be required to maintain permit coverage.

A person requesting coverage for a motorized suction dredge and a gravity or siphon suction dredge will be required to pay both annual fees.

An operator of a motorized suction dredge will be required to pay a renewal fee of \$250 in addition to the annual fee for continued permit coverage in 2020.

Once a person is registered to this permit DEQ will invoice annual fees for the convenience of registrants. The application form for this permit will include space for an applicant to provide an invoice contact and address on where to send an invoice. Failure to receive an invoice does not excuse a failure to pay fees.

In 2018, the 2018 annual fee must be submitted along with the updated information that is required by SB3 for permit coverage in 2018. Invoicing will begin late in 2018 for the 2019 calendar year. A renewal notice will be sent in late 2019. Payment of the renewal and annual fee is due with a renewal application. Failure to receive a renewal notice does not excuse a failure submit a timely renewal application or pay fees.

<b>Fees required to maintain permit coverage</b>			
<b>Previous years of coverage and type of suction dredge</b>	<b>First Payment in 2018 must be submitted with updated information in the application for 2018 permit coverage</b>	<b>Invoice Nov. 2018 for 2019 permit coverage with payment due no later than Jan. 1, 2019</b>	<b>Oct. 2019, payment must be submitted with renewal application for 2020 permit coverage</b>
Prior registration in 2015, 2016 or 2017 for gravity or siphon	\$25	\$25	\$25
Registration payment through 2019 for gravity or siphon	No payment required	No payment required	\$25
Prior registration in 2015, 2016 or 2017 for motorized	\$250	\$250	\$500
Registration payment through 2019 for motorized	\$210	\$250	\$500

## Schedule C

Schedule C operating requirements are modified to include SB3 operating requirements for motorized mining equipment. Condition 18 prohibits operation of motorized mining equipment with 1000 feet of a residence or campground during certain hours. This permit condition may be waived in a permit issued to the owner of a federal mining claim if the applicant seeking a waiver provides substantial evidence specific to the mining claim that establishes that the application of the condition either violates federal law, or constitutes a regulatory taking. DEQ shall review and make a determination regarding the request for a waiver of this condition as part of the permit coverage decision.

Condition 19 does not allow metal mining equipment to be operated in a manner that is deleterious to freshwater mollusks, essential salmon habitat or habitat essential to the recovery and conservation of Pacific lamprey.

Schedule C is modified to explain that DEQ will notify a registrant of a change in its permit status when authorization for permit coverage is no longer available and includes their registered mining location. In Condition 20, upon notification from DEQ, a registrant will need to amend their permit application to change a mining location or terminate their general permit registration.

## Outstanding Resource Water Permit Modifications

### Cover page and discharges not authorized by this permit

In July 2017, the EQC voted to designate the North Fork Smith River and its tributaries as Outstanding Resource Waters and to establish policies to protect the water quality and outstanding values of these waters. New permitted point source discharges to the waters, as well as other activities that would degrade the current high water quality and exceptional ecological characteristics and values of the water are not allowed. An exception to the permitting restriction can only be provided to respond to a public health or

welfare emergency or for restoration purposes if such an activity were for a limited duration. EPA approved DEQ's Outstanding Resource Water designation in October 2017.

This Outstanding Resource Water has exceptional clarity, low content of dissolved or suspended solids and is valuable habitat for endangered populations of Coho salmon, rare plant species and other fish and wildlife. A placer mining discharge can introduce a turbid plume of varying length and cloudiness depending upon the characteristics of material processed.

According to OAR 340-041-0305, no new discharges are allowed in Outstanding Resource Water of the North Fork River and its Tributaries and no activities can be allowed that would degrade the existing water quality and ecological characteristics and values of these waters. To prevent degradation of this water, general permit coverage will not be provided.

Pursuant to OAR 340-041-0305 this general permit does not authorize discharges in Outstanding Resource Waters of North Fork Smith River, its tributaries and associated wetlands. The section of the permit "DISCHARGES NOT AUTHORIZED BY THIS PERMIT" is modified to implement this designation.

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<sup>1</sup><https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/SB3/Enrolled>

<sup>2</sup>OAR 340-041-0305 Water Quality Standards and Policies for South Coast Basin  
<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1458>