



Stream Channel Protection Program

OVERVIEW

The Idaho Stream Channel Protection Act requires that the stream channels of the state and their environment be protected against alteration for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality. This means IDWR must approve in advance any work being done within the beds and banks of a continuously flowing stream.

What is Covered by the Act?

In general terms, the Stream Channel Protection Act applies to any type of alteration work, including recreational dredge mining, done inside the ordinary high water marks of a continuously flowing stream.

The Act requires that you first get a stream channel alteration permit from IDWR before you begin any work that will alter the stream channel.

A stream channel alteration is defined as any activity that will obstruct, diminish, destroy, alter, modify, relocate or change the natural existing shape or direction of water flow of any stream channel. This includes taking material out of the channel or placing material or structures in or across the channel where the potential exists to affect flow in the channel.

Permit Information & Forms

- [Stream Channel Alteration Permits](#) - To alter a stream channel, file a joint-agency stream channel alteration permit.
- [Recreational Mining Permits](#) - Get your permit before looking for gold.

Emergency Permits

Concerns about flooding due to rising water levels in Idaho creeks and rivers during periods of high water may prompt residents and local government leaders to pursue emergency flood control work in streambeds to protect life or property. To prevent unnecessary damage to stream channels, Idaho law requires that all stream channel alteration work, including emergency work must have an approved stream channel alteration permit prior to beginning the work. Expedited emergency stream channel alteration permits are available through IDWR's Regional Offices. The emergency permit application can be found at the IDWR's website and must contain the name of the stream, a legal description stating where the work will be done, the length of the project, and a brief description of the work to be done.

Source: <https://www.idwr.idaho.gov/streams/>, accessed on 10/2/2015. Please visit web page for most current information.

NOTE: Stream channel alteration projects may also require you to obtain permits under Federal laws administered by the U.S. Army Corps of Engineers. The following link will take you to the [U.S. Army Corps of Engineers](#) regulatory information page to help you make that determination.

STREAM CHANNEL ALTERATION PERMITS

To alter a stream channel, an applicant must file a joint-agency stream channel alteration permit and receive approval of your application. The completed application may be submitted to any Idaho Department of Water Resources office. There is a non refundable application fee for a joint application of \$20.

A joint-agency stream channel alteration application is used by IDWR, the Idaho Department of Lands, and the U.S. Army Corps of Engineers, is available from any of these offices or the IDWR web site. This single form is intended to streamline the application process among the various concerned resource agencies. To minimize duplication of effort when submitting an application that is pertinent to more than one agency, complete the application, except for the signature sections, make copies and then sign all copies and send to appropriate agencies. The application asks for a description of the project, the amount of material that needs to be excavated or filled, any anticipated environmental consequences, the type of equipment you expect to use and other similar information. You also will need to submit plans for your project that will help reviewers understand the extent, purpose and location of the work. These plans should include some reference to water surface elevations and stream boundaries including the ordinary high water marks.

It typically takes about 60 days for your application to be reviewed and a permit issued after receipt of all necessary information.

The permitting rules do not require public notices or public hearings; however, in some circumstances a public hearing is necessary to ensure full coordination and project visibility. Since you cannot begin work without the permit, it is important that you allow for the permit processing time in planning your proposed project start date.

Rules Governing Stream Channel Alterations

- [IDAPA 37.03.07](#)

Stream Channel Alteration Permit Forms

- [Joint Application For Stream Channel Alteration Permit](#)
- [Instruction Guide: Joint Application for Permit](#)
- [Sample Drawings: Joint Application for Permit](#)
- [Emergency Permit Application to Alter a Stream Channel](#)

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RECREATIONAL MINING PERMITS

Many people enjoy the challenge of searching for gold in Idaho's streams and rivers by means of recreational mining. The alteration of stream channels by using recreational mining equipment in a stream is regulated in Idaho by the Stream Channel Protection Act.

Recreational mining equipment can be any implement that is used to dig, scrape, dredge, or otherwise move stream bed materials from below the mean high watermark in search of minerals. If powered, your mining equipment may not exceed specific size and capability requirements. For example, if you use a suction dredge, it must have a nozzle diameter of 5 inches or less and be rated at no more than 15 horsepower and be capable of processing no greater than two (2) cubic yards of material per hour. Other powered and non powered mining equipment also have capacity restrictions. The Stream Channel Protection Act also requires that a miner must obtain a permit from the Idaho Department of Water Resources before the miner alters any portion of the stream bed. State regulations also specify the streams where recreational mining is allowed.

WARNING: It is a misdemeanor in Idaho to alter a stream channel without the permit or to violate the conditions of the permit. You can be fined from \$150-\$500 per day for violations. Also, it is important to understand that an IDWR permit **does not** allow you access to private lands or on another person's mining claim or lease. Mineral removal from streams on private lands requires permission or a mineral lease from the owner.

Recreational Mining Permit Forms

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[View a map of Streams Open for Recreational Mining as per IDWR Instructions](#)

Frequently-Asked Questions

Where Can I Do Recreational Mining?

In general, a valid permit allows you to do recreational mining in any stream on state or federal land where it is specifically allowed. Your permit directs the miner to the IDWR documents that identify the streams or stream sections where recreational mining is allowed and the time during the year it is allowed.

- [View a map of Streams Open for Recreational Mining as per IDWR Instructions](#)

Ownership of minerals on state lands in the beds of navigable rivers belongs to the State of Idaho and no removal is allowed without a mineral lease from the Department of Lands. The instructions for your permit will provide a list of streams considered navigable by the State of Idaho. The Department of Lands also has authority over dredge mining in Idaho lakes.

What about Mining in Streams on Federal Lands?

Even though you have your State permit, you should check with the Forest Service district ranger station or the Bureau of Land Management offices. They can tell you about access,

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open roads, camping, land ownership, areas closed to mining, and other information regarding Federal land. Many streams in National Forests may not be open for mining.

What about Environment Considerations?

Small recreational mining equipment operated in a stream channel may cause environmental damage if operated improperly or at the wrong time of year. This could potentially impact an entire run of fish and cause the stream to be closed to all future mining activities. The U.S. Environmental Protection Agency is responsible for administering the National Pollutant Discharge Elimination System (NPDES) general permit program in Idaho. EPA approval under the NPDES general permit for small scale suction dredge operations in Idaho is required beginning in 2013. Additional information regarding NPDES permitting may be obtained at [EPA's website](#) or by contacting the following EPA Office:

EPA Idaho Operations Office
950 W Bannock, Suite 900
Boise, ID 83702
208-378-5746

In addition, Idaho is concerned with the introduction of invasive species into Idaho waters from floating craft or other devices, including recreational mining equipment that have previously been used in contaminated waters outside the state. To ensure that you do not introduce any invasive aquatic species, specifically Quagga/Zebra mussels, Idaho's Invasive Species Law makes it illegal to import, transport, or possess invasive species. Recreational mining equipment operators are required to decontaminate their equipment before they come to Idaho or before returning to Idaho after mining out of state. The Idaho Department of Water Resources also strongly recommends that all mining equipment be decontaminated when moving into another watershed within the state. See 100thmeridian.org for information on decontamination of equipment.

Operators of recreational mining equipment shall ensure that all internal and external surfaces of their equipment are cleaned and free of bacterial growth by circulating hot water internally and thoroughly pressure washing all exterior surfaces. Cleaning should ensure that all rough or gritty spots (microscopic mussels feel like sandpaper) are cleaned using high pressure 140+ degree Fahrenheit water or similar cleaning processes and thoroughly drying dredge for a minimum of 24 hours prior to use. See the [Idaho Department of Agriculture's website](#) for more information.

Why do I need a permit to operate recreational mining equipment?

The Idaho Department of Water Resources (IDWR) administers the Stream Channel Alteration Act established by [Idaho Code § 42-3801](#) et seq. If you are going to dredge, dig, scrape, or otherwise move stream bed materials from below mean high watermark (MHW) in your prospecting/mining efforts, you will be altering the stream channel and you must have an IDWR-issued stream channel alteration permit.

If your prospecting/mining equipment does not exceed certain physical size limits, you operate your equipment as described in our current [IDWR Recreational Dredging Program Instructions](#), and you operate only when streams are specifically listed as open, you may apply for and will be issued recreational dredging permit (LETTER PERMIT) to conduct your stream channel alterations.

Source: <https://www.idwr.idaho.gov/streams/>, accessed on 10/2/2015. Please visit web page for most current information.

If you wish to alter a stream bed with other equipment or alter streams that are closed (not specifically listed as open), you must have a valid stream channel alteration long form permit in your possession at the time of alteration. These are called [Joint Application for Permits](#).

Is the LETTER PERMIT the only permit I need to conduct recreational prospecting/mining?

Your LETTER PERMIT allows you to alter a stream channel only when such alterations are conducted as described in the current [IDWR Recreational Dredging Program Instructions](#) and the stream is specifically listed as open. The operator of the prospecting/mining equipment is responsible for other permits that may be required. For example, you may have other permit requirements if you are on U.S. National Forest lands or U.S. BLM lands, and you would need to contact the [U.S. EPA for any National Pollutant Discharge Elimination System \(NPDES\) general permit requirements](#).

I have a mining claim. Why do I need a stream channel alteration permit?

Your mining claim gives you rights to minerals on a specific portion of land. The miner is still responsible for conducting their mining operation in compliance with other established requirements, including stream channel alteration requirements established by Idaho Code that requires you to obtain a stream channel alteration permit.

What is considered recreational mining equipment?

Any equipment that can alter the bed of a stream channel below mean high watermark (MHW) requires a stream channel alteration permit. If a miner's equipment and its operation are consistent with that described in the [IDWR Recreational Dredging Program Instructions](#) and the equipment is operated in a stream specifically listed as open, it is considered recreational mining and can be done with a LETTER PERMIT. All other equipment or methods of operation require a [Joint Application for Permits](#).

How do I determine if I am working below mean high watermark?

[Idaho Code § 42-3802\(h\)](#) states "Mean high watermark" means a water level corresponding to the natural or ordinary high watermark and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes.

Do I need a LETTER PERMIT to operate my high-banker on a stream specifically listed as open?

Your high-banker (or other types of hydraulic concentrators used for mining) are only allowed to operate in stream channels (below MHW) when the stream is specifically listed as open and the operator has a valid LETTER PERMIT.

- If you operate your high-banker at an upland location (above MHW), you require a LETTER PERMIT to process material that has been removed from the stream channel (below MHW). Stream channel materials can only be removed from a stream channel when the stream is specifically listed as open.
- If you operate your high-banker in an upland location (above MHW) and you are processing only upland materials (obtained from above MHW), it is not considered a stream channel alteration and you do not need a LETTER PERMIT. However, Idaho Department of Lands placer mining regulations may apply. Please visit the [Idaho Department of Lands website](#) for more information.

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- If you operate your high-banker at an upland location (above MHWM), you must also have a water right to withdraw water from the stream.

Do I need a water right?

If you are withdrawing water from the stream, you must have a [valid water right in your possession](#).

What is the penalty for violating Idaho's stream channel protection act?

You may be issued a citation for illegally altering a stream channel. Illegal stream channel alterations that have occurred over several days are subject to penalties from \$150.00 to \$500.00 per day of violation. Repeat offenders or blatant violations are subject to equipment forfeiture.