SAND AND GRAVEL MINING IN OKLAHOMA STREAMS
GUIDELINES FOR OPERATIONS
CLEAN WATER ACT, SECTION 404

Effective Date: April 7, 2000

Section 404 of the Clean Water Act requires the discharge of dredged or fill material into "waters of the United States" be authorized by a permit from the U.S. Army Corps of Engineers (Corps) prior to the work. The term "waters of the United States" includes rivers, lakes, streams, intermittent creeks, natural ponds, and wetlands. The "discharge of dredged material" includes the addition, placement, or redistribution of dredged or excavated materials within waters of the United States. Sand and gravel mining activities within rivers and streams often require authorization under Section 404.

These guidelines do not apply to navigable waters subject to the authority of Section 10 of the Rivers and Harbors Act of 1899. Section 10 requires prior authorization for any activity in or around a navigable water which could impact the navigable capacity or condition of the waterway. Navigable waters in the Tulsa District include the McClellan-Kerr Arkansas River Navigation System and backwater areas influenced by the navigation pools (Arkansas River, Grand River, Sans Bois Creek, Verdigris River, and Bird Creek), portions of the Poteau River, the Canadian River upstream to the Lexington/Purcell area, Eufaula Lake, Lake Texoma, the Red River downstream from the Oklahoma/Arkansas state line, and the Illinois River downstream from the Moody/Ellerville area including Tenkiller Ferry Lake. If your site is located on any of these waters you are advised to contact the Corps at the location listed on the last page for additional information on Section 10 authority regarding your sand or gravel operation.

For the removal of sand, gravel, or other stream bed materials from rivers and streams to be conducted in a manner which generally: 1) does not require authorization under Section 404 of the Clean Water Act, and 2) reduces aquatic ecosystem impacts, the operator must comply with one of the two following sets of guidelines. The Corps reserves the right in individual situations to assess compliance with these guidelines and determine that particular actions in compliance with these guidelines nonetheless require authorization under Section 404 of the Clean Water Act. You are advised to consult with the Corps regarding the applicability of these guidelines or Section 404 to specific activities not fully addressed by these guidelines.

Guidelines for Suction Dredge Operations

- Utilize a suction dredge conveying the dredged sand or gravel to an upland dewatering, stockpile, and processing area. Processing facilities and stockpiles areas must not be located within wetlands. To the extent possible, clearing and removal of riverine timber shall be avoided or minimized in preparing the mining site. Landclearing of wooded wetlands is prohibited without a permit under Section 404.

- No dewatering piles or stockpiles within the banks of the stream below the Ordinary High Water Mark (OHWM).

- Dredging shall not be conducted in a manner or to such depths that induces channel shifts in the river or stream bed.

- The operator must store unused equipment, fuels, and materials above the OHWM and outside of the river or stream.

Guidelines for Excavation by Other Methods and Equipment

- Excavate with equipment (front-end loader, dozer, backhoe, etc.) outside of and above the wetted perimeter of the river or stream (The "wetted perimeter" constitutes the water's edge on day of operation, defined below). To the extent possible, the operator must implement "one-step removal". This step normally involves excavating or dredging the material with a type of bucket loader such as a backhoe or tracked excavator. The material excavated is then placed directly into an enclosed truck bed and hauled to an approved disposal/storage site.

- Maintain an undisturbed buffer riverward from the edge of the excavation work zone to the wetted perimeter of the river or stream. This buffer shall be proportional to the size of the waterway and generally not less than 25-feet wide. For small streams less than 50-feet wide, the width of this buffer may be reduced to 10-feet wide. To the extent this buffer is vegetated, disturbance to this vegetation shall be minimized.

- Processing facilities and stockpiles areas must not be located within wetlands. To the extent possible, clearing and removal of riverine timber shall be avoided or minimized in preparing the mining site. Landclearing of wooded wetlands is prohibited without a permit under Section 404.

- No dewatering piles or stockpiles within the banks of the stream below the OHWM. The only sand or gravel piles which may occur within the banks of the stream are short-term working piles. Short-term working piles are defined as active push-piles or loading-piles in the work area for no longer than 24 hours. All other stockpiles (standing piles in place longer than 24 hours) must be situated above the OHWM and outside of the banks of the river or stream.

- The work area(s) below the OHWM shall be restored to natural grade and appearance at the end of each work week. Push piles and loading piles remaining at the end of the week shall be redistributed across the work area, to leave no obstruction to or disruption of flows in case the river or stream rises. Restoration of natural contours shall be accomplished with the focus of minimizing the opportunity for disturbed materials or pollutants to be washed downstream.

- The operator must store unused equipment, fuels, and materials above the OHWM and outside of the river or stream.

- In the event of anticipated river or stream rises based on storms within the watershed, the operator shall redistribute remaining short-term working piles to restore natural grade and appearance to the work area(s) and remove equipment from the river or stream prior to the advancement of water levels.

- Excavation shall not be conducted in a manner or to such depths that induces channel shifts or scour holes in the river or stream bed.

- No washing of sand or gravel in the river or stream. If the sand or gravel must be washed, wash it outside of the stream and construct a basin to collect the wash outflow to reduce contribution of sediment to downstream waters.

- On state Scenic rivers and their tributaries, 1) an undisturbed vegetated buffer 100-feet in width landward from the riverbank shall be maintained, and 2) the mining must be operated in such a manner as to allow no new discharges to the scenic river.

- On-the-spot inspections will be conducted to insure that operators without permits are working within these guidelines. Copies of appropriate local and state permits and determinations must be kept on file by the operator and available for viewing. Failure to comply with these guidelines may constitute a violation of Section 404 of the Clean Water Act and may subject the mine operator to administrative or legal action.

ADDITIONAL AUTHORIZATIONS, PERMITS, AND CLEARANCES

- Activities associated with sand or gravel mining may require a Clean Water Act Section 402 permit from the Oklahoma Department of Environmental Quality if there is a discharge to waters of the United States from a point source (such as return water from material washing or classification processes) or if there is construction activity such as clearing, grading, or excavation in any areas (not limited to "waters of the United States"). The Oklahoma Department of Environmental Quality may be contacted by writing to the Water Quality Division, Industrial Permitting, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677, or by telephone to 405-702-8100.

- The operator may be required to obtain a Flood Plain development permit from the local governing municipality or a written determination from such that a Flood Plain development permit is not required. To find out who is the Flood Plain Administrator for your area, contact the Oklahoma Water Resources Board, Mr. Ken Morris, at 405-530-8800, or consult the internet at http://www.state.ok.us/~owrb/forms/fpalist.pdf.

- The operator must obtain a permit or waiver of permit from Oklahoma Department of Mines, Minerals Division, 4040 N. Lincoln Blvd, Suite 107, Oklahoma City, Oklahoma, 73105, or telephone 405-521-3859.

- If operating on the following listed rivers, or on large tributaries to these rivers within one mile of its juncture with the main stem river, your activity may impact threatened or endangered species or their habitat. You are advised to contact the U.S. Fish and Wildlife Service, Ecological Services Office, 222 S. Houston, Suite A, Tulsa, Oklahoma, 74127, or telephone 918-581-7458, regarding working in these areas. The specific rivers are:
  a. Red River
  b. Glover River
  c. Kiamichi River
  d. Canadian River
  e. Grand (Neosho) River
  f. Arkansas River
  g. Salt Fork of the Arkansas River
  h. Cimarron River
  I. Little River
  j. Mountain Fork River

- If proposing to operate in an Oklahoma Scenic River or tributary, contact the Oklahoma Scenic Rivers Commission to determine the applicability of state law to your proposed operation. The Oklahoma Scenic Rivers Commission can be contacted by writing Post Office Box 292, Tahlequah, Oklahoma 74465, or telephone 918-456-3251. The state scenic rivers under the authority of the Oklahoma Scenic River Commission are:
  a. Flint Creek - all portions (Delaware County)
  b. Illinois River - from state line downstream to the confluence with the Baron (Barren) Fork River (Adair, Delaware, and Cherokee Counties)
  c. Baron (Barren) Fork River - from the present alignment of U.S. Highway 59 downstream to the confluence with the Illinois River (Cherokee County)

  Other rivers in the state identified as State Scenic Rivers and identified as Outstanding Resource Waters in the Oklahoma Water Quality Standards are:
  d. Mountain Fork River - Above Broken Bow Reservoir (McCurtain County)
  e. Big Lee Creek - Above 420' msl elevation (Adair and Sequoyah Counties)
  f. Little Lee Creek - (Adair and Sequoyah Counties).
  g. Baron (Barren) Fork River - (Adair County)

DEFINITIONS

Dredged material - The term "dredged material" is any material that is excavated or dredged from "waters of the United States".

Discharge of dredged material - The term "discharge of dredged material" means any addition of dredged material into, including within, "waters of the United States". The term includes, but is not limited to, the addition of dredged material to a specified discharge site located in "waters of the United States", and any addition (including redeposit other than incidental fallback) of dredged material (including excavated material) into "waters of the United States" which is incidental to any activity, including mechanized landclearing, ditching, channelization, or other excavation. The term "discharge of dredged material" is specifically defined in regulation at 33 CFR 323.2(d).

Ordinary High Water Mark - The term "Ordinary High Water Mark" (OHWM) is defined as that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas, and may be substantially higher elevation than "normal" water level. For assistance in determining the OHWM for your site, please contact the Corps District Office, Regulatory Branch at the telephone number or address listed below.

Waters of the United States - The term "waters of the United States' is defined with specificity at 33 CFR 328.3(a) and generally includes all waters which are or could be used for interstate or foreign commerce, the territorial seas, and all other interstate and intrastate waters including lakes, rivers, streams, intermittent streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, all impoundments of streams, tributaries to waters listed above, and wetlands adjacent to any such waters.

Wetlands - Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetted Perimeter - The wetted perimeter means the observable boundary defining each side of the portion of the stream or river bed wetted by the stream flows on a particular day. By definition, this line is subject to daily or even hourly variation based on the level of flows in a river or stream.

For more information, contact:

Regulatory Branch
U.S. Army Corps of Engineers, Tulsa District
1645 S. 101st East Avenue
Tulsa, OK 74128-4609

Telephone: 918-669-7400
Facsimile: 918-669-4306

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