



US Army Corps  
of Engineers  
Portland District

# INFORMATIONAL PUBLIC NOTICE

## Application of the term “Discharge of Dredged Material” to activities associated with Aggregate Mining including Bar Scalping

Issue Date: December 21, 2006

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As provided in U.S. Army Corps of Engineers regulations at 33 CFR 323.2(d), interested parties are hereby notified the U.S. Army Corps of Engineers (Corps), Portland District regards the use of mechanized earth-moving equipment to conduct landclearing, channelization, in-stream mining, bar scalping or other similar earth-moving activity in waters of the United States as resulting in a discharge of dredged material unless project-specific evidence shows the activity results in only incidental fallback.

1. The term *discharge of dredged material* means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, waters of the United States. The term includes, but is not limited to, the following:

- the addition of dredged material to a specified discharge site located in waters of the United States;
- the runoff or overflow from a contained land or water disposal area; 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 definition above is taken verbatim from the federal regulations.)

2. The term “In-stream” means below the ordinary high water (OHW) mark or the high tide line of a water body. A river or stream’s water level at any particular time does not necessarily represent that water body’s OHW.

3. After viewing and evaluating various methods of bar scalping, in-stream mining and mechanized landclearing, and the mechanized earth-moving equipment used to perform these activities under actual field operations, the Portland District has found these activities generally cannot be conducted without an associative, regulated discharge that is more than an incidental fallback of material.

4. Members of the public who believe their operation only results in an incidental fallback of material are encouraged to submit a permit application for the Corps to review. The application must contain detailed information about the full scope of the specific operation so the Corps can fully consider the applicant’s position. The project description must provide detailed information regarding the full scope of the operation (washing, temporary stockpiles, etc), all equipment utilized in the processes, their method of operation, the location of disposal sites, method of accessing the site and other details relevant to the specific operation..

5. If activities described above are carried out in waters of the United States without a permit or without written confirmation from the Corps the activity results in only incidental fallback, the Corps will presume an unauthorized, regulated discharge has occurred and enforcement action may be initiated.

6. Temporary access roads are sometimes associated with bar-scalping or in-stream mining operations. To be exempt from Clean Water Act permitting requirements temporary mining roads must comply with the best management practices and the requirements found in 33 CFR 323.4(a)(6) thru (c).

7. The term “discharge of dredged material” does not include the incidental movement of dredged material occurring during dredging for navigation in navigable waters of the United States if that dredging has been authorized by Congress or the Corps of Engineers.. This exception is not applicable to dredging activities in wetlands.

8. Written questions regarding this informational public notice should be mailed to the following address:

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