

Tennessee Department of Environment and Conservation
General Aquatic Resource Alteration Permit for
Recreational Prospecting



Effective Date: December 9, 2015

Expiration Date: April 6, 2020

Activities Covered by this Permit

This general permit authorizes various methods of recreational prospecting for gold or other precious and semi-precious ores, metals, and minerals in the waters of Tennessee. This general permit does not cover land-based prospecting or mining operations, commercial or for profit operations. For the purposes of this general permit, prospecting is divided into two categories or classes. The classification is based on whether the prospecting is done manually or mechanically. The two classes have different limits and conditions under which the work may be carried out.

- **Class 1** includes non-mechanized forms of prospecting including, but not limited to: pans, hand-powered sucker tubes, portable hand sluices and rocker boxes.
- **Class 2** includes mechanized forms of prospecting including, but not limited to: dredges, highbankers, powered sluices and trommels.

No property rights or rights of access or ingress or egress are conveyed by coverage under this general permit nor does it supersede any local, state or federal restrictions associated with zoning, parks, natural areas, wilderness areas, wildlife management areas or other designated use areas

Certain activities due to size, location or potential water quality impacts are not covered under this general permit, as described in both the Special and General Conditions sections. Activities not qualifying for authorization under this general permit may be authorized by a standard (individual) permit provided that all requirements of the *Tennessee Water Quality Control Act of 1977* (the Act) are met.

Class 1 Special Conditions

This class covers non-mechanized forms of prospecting including, but not limited to: pans, hand-powered sucker tubes, portable hand sluices and rocker boxes. In addition to the General Requirements, the following requirements apply to this class of prospecting activities:

1. Class 1 prospecting is not permitted in any stream segment with a wetted width of less than thirty (30) feet, that is designated by the state or federal government as containing threatened or endangered aquatic species, or aquatic species deemed in need of management. Class 1 prospecting is not permitted in any stream segment designated by the U.S. Fish and Wildlife Service as being critical habitat.
2. Class 1 prospecting shall not occur in any stream reach with a wetted width of less than five (5) feet at the spot of the activity.
3. Disturbance or destabilization of stream banks is prohibited. All digging activities shall be conducted at least one (1) foot from the water's edge on the day of the activity. In areas where the stream bank is solid bedrock, deposited material closer than 1 foot to the water's

- edge may be removed by the use of sucker tubes or other crevicing tools provided that special condition (11) is not violated.
4. Hand operated tools no larger than a #2 shovel may be used to excavate material.
 5. All reject material shall remain in the stream, replaced to mimic original conditions. Concentrates may be removed for later, off-site, processing.
 6. Panning activities shall maintain a distance of seventy-five (75) feet between dig sites as measured along the stream channel. More than one pan may be in use at a single dig site.
 7. Sluices shall maintain a distance of two hundred (200) feet between installations as measured along the stream channel. Up to three sluices may be in use at a single installation site.
 8. An exception to the spacing requirement may be granted for annual, special events such as public demonstrations or festivals. A written request describing the activity, the desired spacing and specifying the date(s) on which the event will occur shall be submitted to the Division of Water Resources no less than thirty (30) days prior to the event. Written approval of the exception (issued by the division) is required to be on site during the event.
 9. Sluice dams shall be constructed so that upstream/downstream boat, or other recreational access, is not obstructed.
 10. All sluice dams shall be broken down daily and the disturbed stream substrate returned as close to its original location as possible.
 11. No objectionable color contrast, or plume, shall be visible in the stream greater than one hundred (100) feet downstream of the prospecting activities. No visible solids shall be deposited on the streambed downstream of the prospecting activities.
 12. The use of pry bars, chisels, wedges, shovels, etc. to break layers of bedrock is not permitted. Loose rock may be moved and returned to its original position but competent bedrock shall not be disturbed.

Class 2 Special Conditions

This class covers mechanized forms of prospecting including, but not limited to: dredges, highbankers, powered sluices and trommels. In addition to the General Requirements, the following requirements apply to this class of prospecting activities:

1. Class 2 prospecting is not permitted in any stream segment designated by the state or federal government as containing threatened or endangered aquatic species, aquatic species deemed in need of management, or designated as being critical habitat.
2. Class 2 prospecting is not permitted in any stream on the Division of Water Resources' 303d impaired waters list for channel, physical substrate, or habitat alteration.
3. All operations must take place in-stream. Operating on stream banks or in the floodplain is not allowed.
4. Operations shall not be conducted within two (2) feet of the water's edge on the day of the activity. In areas where the stream bank is solid bedrock, deposited material closer than two (2) feet to the water's edge may be removed by mechanized methods provided that special condition (15) is not violated.

5. Minimum stream sizes relative to equipment types are as follows:

<u>Equipment Type</u>	<u>Stream Size</u>
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Power Sluices, Highbankers and Mechanized Trommels: Minimum wetted width of 15 feet at the spot of the activity

Dredges - 2 inches or less:* Minimum wetted width of 10 feet at the spot of the activity

Dredges - up to 3 inches:* Minimum wetted width of 25 feet at the spot of the activity

Dredges over 3 inches:* must apply for an individual Aquatic Resources Alteration Permit to operate.

* Dredge sizing refers to the nozzle diameter.

6. All dredges greater than 2 inches must employ a classifier over the nozzle intake.
7. The permit number shall be prominently displayed on any in-stream equipment, using two (2) inch or larger characters and numbers.
8. Pump engines shall not exceed eight (8) horsepower.
9. All engines shall be equipped with a muffler and spark arrestor.
10. All operations shall maintain a distance of two hundred (200) feet between sites as measured along the stream channel. Only one mechanized form of prospecting may be in use at a given site. An exception to the spacing requirement may be granted for annual, special events such as public demonstrations or festivals. A written request describing the activity, the desired spacing and specifying the date(s) on which the event will occur shall be submitted to the Division of Water Resources no less than thirty (30) days prior to the event. Written approval of the exception (issued by the division) is required to be on site during the event.
11. All fueling or servicing operations shall be performed at least twenty-five (25) feet away from the stream or wetlands. Propane powered equipment is excluded from the fueling requirement.
12. Blaster nozzles may only be used underwater.
13. Operations shall not be conducted within fifty (50) feet of any bridge supports, other road crossings, weirs, docks, ramps or other public and private structures.
14. No objectionable color contrast, or plume, shall be visible in the stream more than two hundred (200) feet downstream of the equipment discharge. No visible solids shall be deposited on the streambed downstream of the dredging operation.
15. Operations shall be conducted so that upstream/downstream boat, or other recreational access, is not obstructed.
16. The use of pry bars, chisels, wedges, shovels, etc. to break layers of bedrock is not permitted. Loose rock may be moved and returned to its original position but competent bedrock shall not be disturbed.

General Conditions

The following requirements apply to all classes of prospecting described in this permit:

1. Prospecting is not permitted in streams designated as Outstanding Natural Resource Waters.
2. Prospecting is not permitted in streams listed on the Division of Water Resources' 303d list for contaminated sediments.
3. Prospecting is not permitted in any stream, or segment thereof, managed for brook trout.
4. Prospecting is not permitted in stream segments listed as Exceptional Tennessee Waters because of exceptional biological diversity or stream segments with outstanding ecological, or recreational value as determined by the Department (Rule 0400-40-03-.06(4)6.-7.)
5. All disturbances (i.e., excavation) shall be conducted at, or below, the water surface.
6. Disturbance of terrestrial vegetation shall be minimized; removal is not permitted.
7. All reject material shall be replaced as close to its original location as possible. Holes shall be filled and no piles of material shall remain. No material from the streambed shall be placed on the stream bank.
8. No chemical processing of materials shall be conducted in, or within two hundred (200) feet of, a stream, wetlands or in any area where chemicals or waste are likely to enter waters of the state.
9. All operations shall take place between the hours of sunrise and sunset.
10. When moving between different waters, equipment shall be cleaned in accordance with guidelines furnished by the Tennessee Wildlife Resources Agency to minimize the spread of undesirable flora or fauna.
11. All activities shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the ARAP application (form CN-1091) for Class 2 operations and the limitations, requirements and conditions set forth herein for both classes of prospecting.
12. All activities shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 0400-40-03-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes, but is not limited to, the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 0400-40-04. These uses include: fish and aquatic life (including trout streams and naturally reproducing trout streams), livestock watering and wildlife, recreation, irrigation, industrial water supply, domestic water supply and navigation.
13. Work shall not commence until the permittee has obtained all necessary authorizations pursuant to applicable provisions of §10 of The Rivers and Harbors Act of 1899; §404 of The Clean Water Act and §26a of The Tennessee Valley Authority Act, as well as any other federal, state or local laws.
14. This permit does not authorize access to private property. Arrangements concerning the

use of private property shall be made with the landowner.

15. This permit does not authorize the discharge of any waste, or other substances that may be harmful to humans, terrestrial or aquatic life, into waters of the state.
16. Activities occurring in known or likely habitat of state or federally listed threatened, endangered, or a species deemed in need of management may not be authorized without prior coordination with the Tennessee Wildlife Resources Agency (TWRA) and TDEC Division of Natural Areas (DNA) to determine if the proposed activities will or will not likely result in take, harassment, or destruction of the species or render the habitat unsuitable. Adverse effects to federal threatened and endangered species are not permitted without prior authorization from the United States Fish and Wildlife Service (USFWS) as required by Section 7 or Section 10 under the Endangered Species Act.
17. This permit does not authorize impacts to cultural, historic or archaeological features or sites.

Supplemental Requirements

The following additional requirements apply to all Tennessee Wildlife Resources Agency properties including, but not limited to, Wildlife Management Areas, TWRA public hunting lands, property leased by TWRA for any purpose, and/or TWRA river access and boat launch areas, and to all lands administered by the Cherokee National Forest:

1. Class 1 (non-mechanized) activities are not permitted in any stream with a wetted width of less than twenty (20) feet.
2. Class 2 (mechanized) prospecting activities are prohibited.

Reopener

This permit may be modified or revoked and reissued for cause, including:

1. the standards or regulations on which the permit is based have been changed by promulgation of amended standards or regulations or by judicial decision;
2. the level of discharge of any pollutant or impact of any activity which is not limited in the permit exceeds existing water quality standards; or
3. the activity is properly conducted but nevertheless has been unable to achieve standards of water quality and the Director determines that continued alteration may cause unreasonable degradation of water quality.

Obtaining Permit Coverage

Class 1 prospecting does not require the submission of a written request nor does it require written authorization from the Division of Water Resources prior to commencement of work. Although written authorization is not required, the activities under this class shall be performed in accordance with all limitations, terms, conditions and requirements of this general permit.

Class 2 activities must obtain coverage by submitting a signed and completed ARAP application (form CN-1091), along with any other required information, to the division. Each application shall apply to only one operator and only to qualifying prospecting equipment owned by that operator. Work shall not commence until a written Notice of Coverage (NOC) from the division is received. An application may request coverage for up to five stream segments totaling one mile or less of

stream. As noted above, not all activities may be eligible for coverage under this general permit and coverage may be denied when appropriate.

Each Notice of Coverage under this general permit is valid until the expiration date specified on the NOC. If the expiration date on an NOC extends beyond the date the General Permit is modified, reissued, or revoked, and the permittee has commenced or is under contract to commence this activity before the expiration date, the permittee may have up to twelve (12) months from the date of the modification, reissuance, or revocation of the General Permit to complete the activity under the present terms and conditions of the general permit.

An application fee as established in Rule 0400-40-11-.02 will be assessed to Class 2 applicants intending to receive an NOC to conduct activities under this general permit. An annual maintenance fee will be assessed to those individuals holding general permit coverage unless a Notice of Termination (NOT) form is received prior to the one-year anniversary of the issuance date of the NOC, or the NOC was issued for less than a one-year term. An NOT form can be downloaded from the division's ARAP webpage (<http://www.tn.gov/environment/article/permit-water-aquatic-resource-alteration-permit>).

APPROVED: _____


Tisha Calabrese Benton
Director, Division of Water Resources

DATE: _____

12/9/15