

# U.S. ARMY CORPS OF ENGINEERS ALASKA DISTRICT, REGULATORY PROGRAM

## Mariculture Task Force

Andrew Gregory  
Bryan Herczeg

Regulatory Division  
Alaska District, USACE

27 April 2021



# Meet Your Presenters

Bryan Herczeg



Project Manager  
US Army Corps of Engineers  
Alaska District  
Regulatory Division  
South Section



Andrew Gregory



Regulatory Specialist  
US Army Corps of Engineers  
Alaska District  
Regulatory Division  
South Section



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# PRESENTATION OUTLINE

## Regulatory Division

- **Authorities**
- **Jurisdiction / WOTUS**
- **Mariculture Permitting**
- **Compliance and Enforcement**



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# AUTHORITY

## RIVERS AND HARBORS ACT OF 1899 SECTION 10: NAVIGABLE WATERS

Authorizes the U.S. Army Corps of Engineers to issue permits for **structures or work in or affecting the navigable waters of the United States**

**PRIMARY GOAL:**  
**MAINTAIN NAVIGATION**



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# **AUTHORITY: RIVERS AND HARBORS ACT OF 1899 SECTION 10**

## **NAVIGABLE WATERS OF THE UNITED STATES**

- Waters subject to tidal ebb and flow, and/or
- Those waters that are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce



# AUTHORITY: RIVERS AND HARBORS ACT OF 1899 SECTION 10

## REGULATED (JURISDICTIONAL) ACTIVITIES

Any work affecting the course, condition, location or capacity of the navigable waterbody:

Examples:



Structures and/or Work



Dredging/Fill



Excavation



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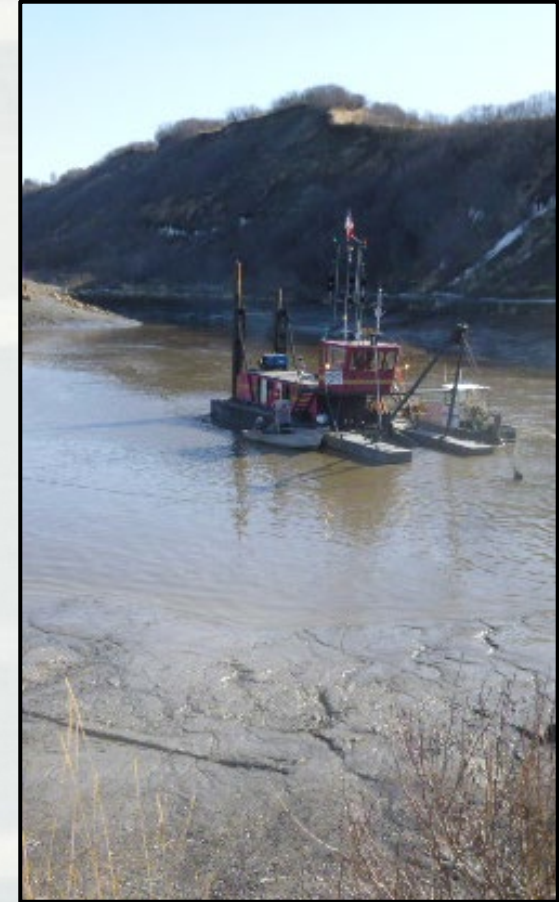
# AUTHORITY

## CLEAN WATER ACT SECTION 404: WATERS OF THE UNITED STATES

- The U.S. Army Corps of Engineers is authorized to issue permits for the **discharge/placement of dredged or fill material into waters of the United States (WOTUS)**

### PRIMARY GOAL CWA:

RESTORE AND MAINTAIN THE PHYSICAL,  
CHEMICAL, AND BIOLOGICAL INTEGRITY OF  
THE NATION'S WATERS



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# AUTHORITY: SECTION 404 CLEAN WATER ACT

## JURISDICTIONAL WOTUS

### Includes:

- All Section 10 waters
- Rivers, tributaries, lakes, ponds, adjacent wetlands

### Boundaries:

- Tidal waters landward to the **High Tide Line (HTL)**
- Non-tidal waters below the **Ordinary High Water Mark (OHWM)**
- Wetlands: **limit of wetlands**



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**U.S. ARMY CORPS OF ENGINEERS  
PERMIT FOR DEPARTMENT OF THE ARMY PERMIT**  
33 CFR 325. The proponent agency is CECW-CO-R.

Collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be required to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT send responses to this collection of information to the District Engineer having jurisdiction over the location of the project or those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the project.

**PRIVACY ACT STATEMENT**

Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form is used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of good reproducible copies which show the location and character of the proposed activity must be attached to this application (see instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application not in full will be returned.

1. NO.		2. FIELD OFFICE CODE		3. DATE RECEIVED		4. DATE APPLICATION COMPLETE	
<p align="center"><b>(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)</b></p>							
<p align="center"><b>(ITEMS BELOW TO BE FILLED BY APPLICANT)</b></p>							
5. APPLICANT'S NAME				8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required)			
First - Middle - Last -				First - Middle - Last -			
Company -				Company -			
E-mail Address -				E-mail Address -			
6. APPLICANT'S ADDRESS				9. AGENT'S ADDRESS			
Address - State - Zip - Country -				Address - State - Zip - Country -			
City -				City -			
7. APPLICANT'S PHONE NOS. w/AREA CODE				10. AGENT'S PHONE NOS. w/AREA CODE			
a. Residence b. Business c. Fax				a. Residence b. Business c. Fax			

**STATEMENT OF AUTHORIZATION**

I hereby authorize \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, all information and documents in my possession or control in connection with this permit application.

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
DATE

**NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY**

\_\_\_\_\_  
NAME OR TITLE (see instructions)

\_\_\_\_\_  
PROJECT STREET ADDRESS (if applicable)

\_\_\_\_\_  
City - State - Zip -

# PERMITS



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# TYPES OF PERMITS

## 1. Nationwide General Permits (NWP) –

1. #48 Commercial Shellfish Mariculture Activities
2. #55 Seaweed Mariculture Activities
3. #56 Finfish Mariculture Activities

## 2. Letters of Permission (LOPs)

## 3. Standard/Individual Permits





# #48: Commercial Shellfish Mariculture Activities

For new and continuing operations

- **Authorizes (10/404)**

- ▶ Installation of buoys, floats, racks, trays, nets, lines, tubes containers, and other structures
- ▶ discharges of dredged or fill material necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities
- ▶ Rafts and other floating structures must be securely anchored and clearly marked

- **Does not authorize**

- ▶ The cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody
- ▶ The cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
- ▶ Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the United States as waste



# #55 Seaweed Mariculture Activities

- **Authorizes (Section 10 only)**

- ▶ structures for bivalve shellfish mariculture *IF* shellfish production is a component of an integrated multi-trophic mariculture system
- ▶ installation of buoys, long-lines, floats, anchors, rafts, racks, and other similar structures
- ▶ Rafts, racks and other floating structures must be securely anchored and clearly marked
- ▶ must remove these structures if they will no longer be used

- **Does not authorize**

- ▶ Structures in established danger zones or restricted areas, Federal navigation channels, shipping safety fairways or traffic separation schemes
- ▶ cultivation of an aquatic nuisance species or cultivation of a nonindigenous species
- ▶ Attendant features





# # 56 Finfish Mariculture Activities

- **Authorizes (Section 10)**

- ▶ Multi-trophic mariculture: bivalve shellfish and/or seaweed mariculture
- ▶ installation of cages, net pens, anchors, floats, buoys, and other similar structures
- ▶ must remove these structures if they will no longer be used

- **Does not authorize**

- ▶ the construction of land-based fish hatcheries or other attendant features
- ▶ cultivation of an aquatic nuisance species or cultivation of a nonindigenous species
- ▶ Attendant features



# OTHER LEGAL REQUIREMENTS



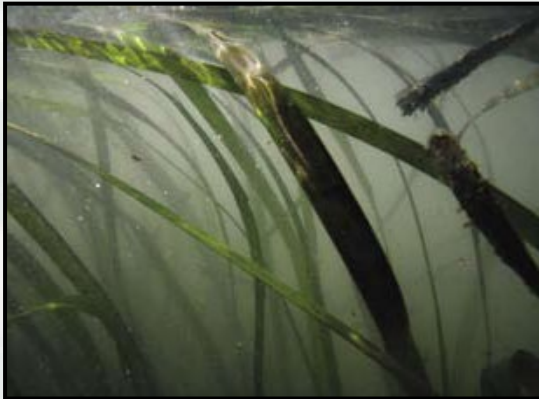
**ENDANGERED SPECIES  
ACT**



**FISH & WILDLIFE  
COORDINATION ACT**



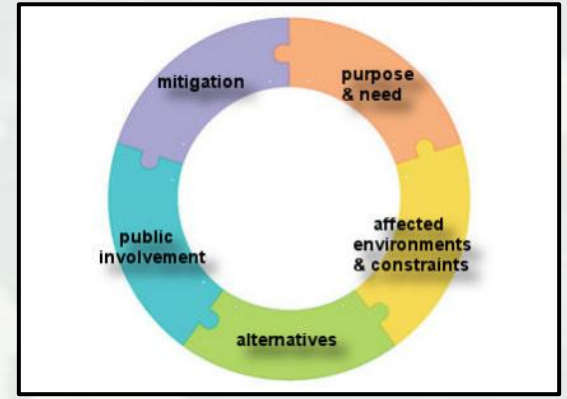
**COASTAL ZONE  
MANAGEMENT ACT**



**MAGNUSON-STEVENS  
FISHERY CONSERVATION  
& MANAGEMENT ACT**



**NATIONAL HISTORIC  
PRESERVATION ACT**



**NATIONAL ENVIRONMENTAL  
POLICY ACT**





# Endangered Species Act (ESA)

- **Primary Stressors of Concern**

- ▶ Vessel Strikes
- ▶ Entanglement
- ▶ Cumulative Impact: habitat exclusion & prey species availability

- **Considerations for Mariculture**

- ▶ Location selection of aquatic farm
- ▶ Reduction in lines
- ▶ Timing of harvest- avoiding overlap with Pacific Herring spawning
- ▶ Implementation of mitigation measures



# Public Interest Review Factors

- Conservation
- Economics
- Aesthetics
- General environmental concerns
- Wetlands
- Historic properties
- Fish and wildlife values
- Flood hazards
- Floodplain values
- Land use
- Navigation
- Shore erosion and accretion
- Recreation
- Water supply and conservation
- Water quality
- Energy needs
- Safety
- Food and fiber production
- Mineral needs
- Considerations of property ownership
- Needs and welfare of the people
- \*Environmental Justice\*
- \*Clean Air Act Conformity\*





# MITIGATION SEQUENCING

1. **Avoidance** – avoid impacts to Waters of the United States, including wetlands, whenever possible
2. **Minimization** – minimize impacts that can't be avoided
3. **Compensation** – may be required to compensate for any impacts that remain **AFTER** avoidance and minimization
  - This is through the purchase of credits from a Mitigation Bank or an In-Lieu Fee (ILF) Provider or offset impacts through a Permittee-Responsible Project



# Questions?

**Andrew Gregory**  
**907-753-2791**  
**andrew.w.gregory@usace.army.mil**

**Bryan Herczeg**  
**907-753-2772**  
**bryan.a.herczeg@usace.army.mil**



<http://www.poa.usace.army.mil/Missions/Regulatory.aspx>



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