



Federal Agency Aquaculture Regulatory Fact Sheet Series

Department of Defense
U.S. Army Corps of Engineers
Regulatory Program

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>

Authorities:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Under section 10, permits are required for structures or work in navigable waters of the United States, which include waters subject to the ebb and flow of the tide and waters that are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Activities that require section 10 permits include structures or work that would affect the course, location, condition, or capacity of navigable waters, such as constructing or placing structures in or over navigable waters or excavating materials from, or depositing materials into, those waters. Examples of section 10 activities related to aquaculture include the placement of structures and equipment in navigable waters, such as piles, cages, trays, racks, ropes/lines, buoys, and floats.
- Section 404 of the Clean Water Act (33 U.S.C. 1344). Under section 404, permits are required for discharges of dredged or fill material into waters of the United States at specified disposal sites. Selection of such disposal sites must comply with the environmental criteria provided in the 404(b)(1) Guidelines. Section 404 permits are required for discharges of fill material that raise the bottom elevation of a waterbody or converts it to dry land. Examples of section 404 activities related to aquaculture include placement of dredged or fill material to prepare the substrate of a waterbody so that it is suitable for larval attachment and growth and placing fill in waters to construct impoundments.

Permit Program Information:

- There are 38 Corps district offices, overseen by eight Corps division offices. The 38 Corps districts are responsible for the day-to-day administration of the Regulatory Program.
- There are four types of permits issued by the Corps: standard individual permits, letters of permission, nationwide permits, and regional general permits. Standard individual permits involve a public notice and comment period prior to making a permit decision. Letters of permission are an abbreviated individual permit process for minor, non-controversial activities. Nationwide permits provide a streamlined process for authorizing categories activities across the country (e.g., nationwide permit 48 for commercial shellfish aquaculture activities). Regional general permits are issued by Corps districts or divisions to authorize categories of activities within a state or other geographic region. Some Corps districts have issued regional general permits to authorize aquaculture activities.
- Before a permit can be issued, there may have to be consultation under Section 7 of the Endangered Species Act and/or the Essential Fish Habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act.
- Water quality certification from the state must be obtained or waived for permits authorizing discharges into waters regulated under the Clean Water Act.
- Permitted activities must also be consistent with the state's coastal zone management program.
- Fees may be charged for standard individual permits: \$10 for non-commercial activities, \$100 for commercial activities.
- The duration of standard individual permits and letters of permission is at the discretion of the district issuing the permit. Nationwide permits and regional general permits are valid for no more than five years.

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