



US Army Corps
of Engineers®
Seattle District

Shellfish ESA Programmatic Form (aka SPIF) Frequently Asked Questions

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This list of questions is intended to help you complete the Specific Project Information Form (SPIF). If you have specific questions about your project, please contact us at (206) 764-6904 or at (206) 764-3495. In addition to these questions, more information and tips are provided in the Power Point presentation “SPIF Workshop 17 Oct 2016”. This power point presentation is meant to accompany these questions be a living document which will be updated frequently. It is also on the Seattle District webpage at <http://www.nws.usace.army.mil/>

Drawings and Photographs:

Q. Can we use our old drawings with a new date?

A. Yes, for an existing operation that was previously authorized under Nationwide Permit (NWP) 48 and has not changed, you can submit the drawings that were provided with your verification (permit) letter. Please review the drawings to make sure they have all the information requested in the SPIF and re-date them to show they are current. This only applies to previously authorized operations as a new application would not have old drawings.

Q. How can I provide a photograph when the daytime tides are high?

A. We understand the fall/winter daytime tides can make photographs a challenge. For a project that is currently verified but needing ESA coverage, please submit any site photographs you have available. Or, submit an aerial photograph using an online web program, such as Google Earth. Please include the date of the photo. Additional information and guidance is provided on pages 21 and 22 in the SPIF workshop power point. For a new project, please provide the photographs as described in the SPIF as they are needed to show the presence or absence of vegetation and the substrate composition.

Q. Is a cross-sectional profile drawing required?

A. At the minimum we request a “plan view” to accurately represent the existing and proposed features and activities. Elevation and/or section views (cross-sectional views) are also helpful for showing the water depths and the dimensions of structures.

Seattle District’s Drawing Checklist “Section 8” has additional information for aquaculture project drawings.

[http://www.nws.usace.army.mil/Portals/27/docs/regulatory/Forms/Drawing_Checklist_\(4-17-12\).docx](http://www.nws.usace.army.mil/Portals/27/docs/regulatory/Forms/Drawing_Checklist_(4-17-12).docx)

Q. Do we need to go on some else's property to show a photograph of an adjacent structure?

A. No, you can illustrate on your drawings and use photographs taken from your property to show adjacent structures such as piers. You can also use Google Earth aerial photographs to show adjacent structures. Please provide the date of the photo (this is provided on the webpage).

Q. Can we sketch over a photograph, such as an on-line Google Earth aerial photograph?

A. Yes, especially for a plan view. You can also use additional sheets to illustrate closer detail, such as a sketch of a structure.

Q. Does the drawing have to be to scale?

A. We appreciate having drawings to scale. If you are unable to create a drawing to scale, then provide the dimensions of your cultivation area, and provide the distance/measurement from the line of the mean higher high water (MHHW) or from a fixed structure such as a bulkhead.

Q. How do I show the latitude and longitude of the four corners of my project area? What if the project area isn't square? What if I have multiple parcels that are non-contiguous?

A. One easy way to determine the latitude and longitude of your project area is to use an on-line mapping program. We provide detailed instructions on sheets 11-21 in the SPIF Workshop 17 October 2016, Power Point. If your project area is not a square/rectangle, you can provide the latitude and longitude for additional points. If you have multiple areas that are not contiguous within your project area, label the latitude and longitude for each area. Also, we do prefer the latitude and longitude be provided as a decimal number.

Q. Do I need to add the North and West symbols on the latitudes and longitudes?

A. There is no need to give the N/W but please provide them as decimal numbers.

Q. Does each drawing require a title block?

A. A title block is very important. We coordinate your projects with other agencies, and have reporting requirements to the National Marine Fisheries Service and U.S. Fish and Wildlife Service. A title block ensures the drawings remain together as a set. Also, drawings become part of any verification/permit.

Q. What if I am planning on big changes to an existing farm?

A. Please provide a request to modify your permit and include the current drawings and new drawings that show the changes. You can also make notes on a current aerial photograph showing what and where the changes would occur.

Q. If we correct the drawings at this time for the SPIF and there are no changes can we reuse them for the 2017 version of NWP 48?

A. We can't confirm this until the 2017 version of NWP 48 is issued; however, that is our intent.

Location:

Q. Under location (Question 9), do I need to fill in the latitude and longitude for all four corners?

A. No, just provide one latitude and longitude. This is to help us locate your project.

Q. Under location (Question 9) what do I fill in for tidal elevation?

A. Fill in the tidal elevation range for your shellfish activities. For example, “between the +2-ft. and -3-ft.” Use the mean lower low water (MLLW) tidal datum. This is the common tidal datum used in tide tables. Also provide this information on your drawings.

Q. Under location (Question 9) what do I use as an address?

A. For a shoreline project, provide the street address to the adjacent upland property. Projects in bays probably won’t have an address. However, please provide the nearest city and the county in either case.

Description of Work and Methodology (Questions 10 and 11):

Q. Can we combine these two questions?

A. #10 is a summarized description of the work and #11 requests more detail of the methods and timing of the work. If it is easier for you to describe, attach a page with the information requested in #10 and #11 and state “see attachment”.

Mechanical Work (Question 13):

Q. How do I report the acreage I am dredging/harrowing?

A. Report the maximum acreage amount you would dredge and/or harrow in any one year. Only complete this section if you are dredging and/or harrowing.

Forage Fish:

Q. Do I need to do a forage fish survey for a brand new growing area?

A. Not if it is already documented as a forage fish spawning area (see question below). If it is documented then ‘new’ activities shall not occur above specific tidal elevations. If not documented, then yes, you will need to have a person who has completed the Washington Department of Fish and Wildlife (WDFW) training for an “approved biologist” for the purpose of conducting forage fish surveys determine if your area is potential habitat for forage fish. For details on how to become an “approved biologist” contact, Phillip Dionne, phillip.dionne@dfw.wa.gov, 360-902-2641.”

Q. For new activities, if surf smelt is documented but you’re not farming above the +5 ft. tidal elevation, do you still need to do a survey?

A. No, it is already documented so no survey is necessary. However, to meet the terms and conditions of the programmatic ESA consultation you will need to keep all activities below the +5 or +7, as appropriate for your species. See conditions #6 and #7 for new activities requirements. Also, see condition #8 which applies to all activities (new or existing) in

documented and potential spawning areas for Pacific herring.

Q. Do I have to take the training through WDFW?

A. Yes, at this time only WDFW is providing the approved forage fish spawning training.

Q: How do I find the work windows for activities in potential forage fish spawning areas?

A. All of the work windows for forage fish, salmon and bull trout are on the Seattle District's web page at <http://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Permit-Guidebook/> then select Work Windows- Marine Waters. We also usually provide this information in the verifications (permits) for new activities.

Eelgrass:

Q. Do you consider non-native Japanese eelgrass (*Zostera japonica*)?

A. Not for the purpose of this programmatic ESA consultation.

Q. If proposing to work in a new area with eelgrass in the vicinity or within the project area, do you need to wait until summer to do an eelgrass survey and to submit the SPIF?

A. If it is a new area to shellfish activities, then the survey needs to be done between June 1 and September 30. For more information, the Seattle District has a reference guidance for eelgrass on our webpage at <http://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Forms/>

Q. What if I am proposing work in a new area with kelp?

A. The eelgrass guidance can also assist with kelp. Please contact us first for additional guidance.

Berms and Dikes:

Q. Is this section of the SPIF (question #17) referring to man-made berms and dikes?

A. Yes.

Q. How do I get a history of a berm/dike if I am leasing the area?

A. You can ask the property owner for a history of the structure. You can also use a feature in Google Earth to look at older photographs (see power point presentation).

Questions of the Various Programmatic Conditions:

Q. For #1, if we cannot meet this condition because we are proposing to use a split-hull (hopper-type) barge, what information is needed?

A. Check "will not meet" for this condition and provide a detailed description of the mechanism your split-hull barge would use to apply material. Explain how the barge opens and how you are able to determine the depth of material being applied. Give the depth of material that you propose to apply including how often you would apply the material. Include specific drawings of the mechanism and photographs. Also, if applicable, include past photographs of the substrate after applying gravel with this barge. This information would be used to complete an individual ESA consultation for this project area.

Q. Does condition #1 apply to shell being placed for cultch? Or for natural seed propagation?

A. No, this condition is for graveling/frosting with the purpose to firm the substrate. It is for shell/gravel material not whole shells with cultch.

Q. For condition #8, what is the approved work window for herring?

A. We provided that information in your previous verification for an existing farm. Also, all of the work windows for forage fish, salmon and bull trout are on the Seattle District's web page at <http://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Permit-Guidebook/> then select Work Windows- Marine Waters.

Q. For conditions #8 and #9, who do we notify if we see spawning/eggs?

A. Notify the Corps, NMFS, and USFWS if spawn is detected during a survey; otherwise, just maintain a record of your surveys. We will include the contact information in your verifications and post all of the contact information on the Seattle District's aquaculture web page. That way we can keep the contacts current.

Q. For condition #8, how do we perform a herring survey and how close to the working date should they be performed?

A. You can also find information on herring surveys on WDFW's website at http://wdfw.wa.gov/conservation/research/projects/marine_beach_spawning/ or find their contact information if you have site specific questions.

Q. For condition #10, can all of my gear only be there for seven days?

A. This question refers to the storage of gear, such as when someone is planting an area. Gear that is not being immediately used or cannot be firmly secured to the substrate cannot be left waterward of MHHW. It should be moved out of the water at the end of the day. Gear that can be firmly secured may remain for a seven day period. This does not apply to the wet storage of harvested shellfish.

Q. For condition #11, does the screening apply to FLUPSYs?

A. The screening is to keep juvenile fish from being sucked into the intake. This does not apply to boat motor intakes (jet pumps) or through-hull intakes. NMFS has their screen criteria online at http://www.westcoast.fisheries.noaa.gov/publications/hydropower/fish_screen_criteria_for_pumped_water_intakes.pdf

Q. Do conditions #12-#15 reflect concern for oil getting into the water? Can I clean off other material or shell from my vehicles?

A. Yes, there is concern about oils and fuels getting into the water. However, other waste materials are also of concern. NWP 48 does not authorize the deposition of shell as waste material. There may also be local/state requirements regarding the transport of material/shell between water areas.

Q. For condition #14, what about transporting fuel to large barges?

A. If you are operating under the state conditions for transporting larger quantities of fuel/oil over marine waters, check “not applicable” and note you are working under other laws and regulations for the transport of oil/fuels.

Q. For condition #16, can I use a shellfish rack composed of creosote?

A. Creosote is a toxic compound to the marine environment. We are requesting you not use toxic compounds in the water. Also, some of the preservatives could be toxic to your shellfish. Note, this does not apply to boats.

Q. For condition #17, does this apply to mesh bags?

A. This applies to tubes, mesh bags, and area nets. Previously verified operations have already had this condition, but contact us if you have questions or need time to implement the condition.

Q. For condition #19, can foam material (Styrofoam) be encapsulated in wood? Does un-encapsulated materials need to be replaced?

A. Yes, wood can be used to encapsulate the foam material. Yes, the un-encapsulated materials need to be removed or replaced.

Q. For condition #22, do we need to report every fish entrapped?

A. Yes, all fish, birds, or mammals found entangled or stranded need to be reported as described in this section. You will be asked to provide a photograph and may also be asked to keep a specimen so that it can be identified by an expert.

Q. For condition #26, is the intent to prevent scouring?

A. Yes, that is the intent. Embedded anchors and midline floats should be used unless prohibited by substrate (e.g., rock) or other site-specific conditions.

Q. For condition #29, do hatchery and/or wet storage intakes/outfalls require authorization under the National Pollutant Discharge Elimination Program (NPDES)?

A. If you are unsure about whether your site is compliant with the NPDES, contact Washington Department of Ecology at <http://www.ecy.wa.gov/programs/wq/permits/forms.html>

Q. For condition #33, what is the definition of tideline?

A. The tideline or waterline is the line on the shoreline where the tide is hitting at any one point in time.

Q. For condition #38, what is the action area?

A. The action area is the inland waters of the State of Washington (see explanation of action area at the beginning of the SPIF). The action area was the area included in the programmatic ESA consultation. This differs from NWP 48, which refers to new species of shellfish in the waterbody.

Q. What happens if I checked ‘will not meet’ for a condition?

A. Please complete the last three questions and provide the completed SPIF to the Corps. We encourage you to contact us if you have questions regarding an activity that does not meet the

conditions of the programmatic ESA consultation.

Triggers for a New Application:

Q. What if there are changes to my project?

A. If there are minor changes to your project, you may be able to just make those changes on your drawings and in the SPIF. What triggers a requirement for a new application will depend on the type and amount of the change. Please contact us for a more specific response to your circumstance.

Other Questions:

Q. Do I provide a SPIF for each project area?

A. Yes, please provide a SPIF for each project area. For existing operations, each of your project areas received a reference number. Please provide a SPIF for each of those reference numbers. For a new operation, please contact us to determine if your project is within a single project area.

Q. What if you are the new owner or new lessee of a permitted operation? Do we keep the same reference number?

A. The reference number will probably remain the same. We have a form for you to use to transfer the previous verification/permit to you. Please contact us and we will send you the form.

Q. Where do I get a map for snowy plover critical habitat?

A. For details and locations of listed species (e.g., butterflies, plants, birds) check with Western Washington Fish and Wildlife Service Office online at <https://www.fws.gov/wafwo/>

Q. How much of the information we are submitting is subject to availability under the Freedom of Information Act (FOIA)? Can certain information be redacted?

A. The Seattle District's Office of Counsel determines what information is required to be released under a FOIA request and what information can be redacted (held back). If you have a concern, please contact us with a specific example and we can coordinate your question with our Office of Counsel.

Q. For the ESA programmatic, what constitutes a new activity?

A. For the ESA programmatic, new activities are the specific footprint of those activities that were undertaken after March 18, 2007. Expansion of activities into a new geographic footprint that had not previously been in commercial aquaculture is treated as a new footprint for the purpose of the programmatic ESA consultation.

Q. Is it a new farm if the activity has changed or if the species being farmed has changed?

A. The shellfish ESA programmatic definition of 'new' is different than NWP 48. For ESA, if you are expanding the geographic footprint of where you are currently undertaking shellfish activities or adding a geographic footprint, then you are doing a 'new' activity. This is explained further in the SPIF.

Q. What about pesticides?

A. The Corps does not have the authority to regulate the use of pesticides or herbicides.