

Aquaculture – Frequently Asked Questions – Round 3 – 26 October 2020

Processing

Q19. Do I need an individual Coastal Zone Management Act (CZMA) consistency determination from Department of Ecology?

A19. Yes – for individual Department of the Army permits individual CZMA consistency determinations are required. You will need to fill out and submit the *Coastal Zone Management - Certificate of Consistency with the Washington State Coastal Zone Management (CZM) Program* form developed by the State and found on the Ecology website at <https://ecology.wa.gov/DOE/files/de/def7d5ed-ec89-43ea-a826-cff3c0ea2e9b.pdf>. Please submit the form as part of the application package to the Corps. Any Department of the Army permit will not be valid until Ecology makes a decision regarding CZMA. Ecology will have 6-months from receipt of the form to make their decision. Please consult with Ecology regarding any processing questions.

Q20. Do I need an individual Section 401 Water Quality Certification (WQC) from the appropriate certifying agency, most often Department of Ecology?

A20. As indicated in A18 above, new regulations went into effect on September 11, 2020, regarding Section 401 WQC. Only applications sent to the certifying agency before this date may be grandfathered under the previous regulations. Please see the [Special Public Notice](#) the Corps sent out on September 25, 2020 regarding these regulation changes. Information regarding areas of responsibility for the various certifying agencies in the State of Washington are described in the document. All applicants seeking a Department of the Army individual permit for commercial shellfish aquaculture after September 11, 2020 should submit a pre-filing meeting request to the certifying agency so the certifying agency can determine whether a Section 401 Water Quality Certification is required. For Department of Ecology, the most current version of their pre-filing meeting request form can be found on their [website](#).

In accordance with EPA requirements under their new WQC regulations, applicants are required to do the following (independent of the Corps):

1. Submit a Pre Filing Meeting Request to the certifying agency 30 days in advance of the WQC request to ensure the certifying authorities receive early notification and have an opportunity to discuss the project and potential information needs with the project proponent before the statutory timeframe for review begins.
2. Submit a WQC request to the certifying agency. That request requires 9 items. Please see the [Special Public Notice](#) for details.

Permitting

Q11. Does my original eelgrass delineation need to be re-delineated under the individual permit process?

A11. Whether a new eelgrass delineation is necessary depends on whether your aquaculture activities or locations have changed, the age of your prior delineation and/or if a new delineation is needed to meet the conservation measure for Endangered Species Act (ESA) shellfish activities programmatic coverage. Generally, for previously authorized projects a new delineation would not be required. However, for new projects or modifications to previously authorized activities a new survey may be required.

If you are unsure of whether you require an eelgrass delineation or for further information regarding eelgrass delineations please contact the project manager assigned to your application at <https://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Contact-Us/>

Q12. Am I required to provide an eelgrass delineation where the entire project area has eelgrass present and the shellfish activities were previously authorized under NWP 48?

A12. No. Because the project area is entirely within an eelgrass bed, the application and drawings should describe and illustrate the project area is entirely within an eelgrass bed.

Q13. I've inspected my project area and do not see eelgrass or kelp and I've looked at the Coastal Atlas and eelgrass and kelp are not documented in the waterbody. Do I need to provide any further documentation?

A13. To determine if eelgrass has been documented in your waterbody, go to <https://fortress.wa.gov/ecy/coastalatlus/tools/Map.aspx> and select the 'contents' tab and check 'eelgrass' and 'kelp' box. You can also determine on this website if kelp is present for meeting the ESA programmatic for shellfish activities. Generally, documentation of the visual inspection and confirmation from the Coastal Atlas will be sufficient.

Q14. What if there is documented eelgrass in the waterbody, but there is no eelgrass at my site that includes both new work and continuation of existing work?

A14. Your application should include a Preliminary Eelgrass Survey. The Preliminary Survey can be prepared as detailed in the *Components of an Eelgrass Delineation Report*. This document can be found at: <https://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Forms/>.

Q15. How do I delineate Kelp and/or other Submerged Aquatic Vegetation (SAV) to meet the ESA programmatic?

A15. The *Components of an Eelgrass Delineation Report* methodology may be used to conduct a survey and prepare a report for other SAVs other than eelgrass.