

## **Federal Permitting for Marine Aquaculture U.S. Army Corps of Engineers**

The U.S. Army Corps of Engineers (ACOE) derives its authority for issuing a permit for marine aquaculture activities in State of Florida waters from two federal Acts.

### **Rivers and Harbors Act of 1899**

Section 10 of the Rivers and Harbors Act prohibits the creation of structures not authorized by Congress that obstruct navigable waters of the United States. The Act provides the Chief of Engineers and Secretary of War authority to authorize the building of structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established. The U.S. Code of Federal Regulations, Title 33, Section 322 prescribes the policies, practices, and procedures the ACOE follows when reviewing permits to authorize certain structures or construction affecting U.S. navigable waters.

### **Clean Water Act**

The Clean Water Act (CWA) is intended to maintain and restore waters of the United States. The CWA authorizes water quality and pollution research, provides grants for sewage treatment facilities, sets pollution discharge and water quality standards, addresses oil and hazardous substances liability, and establishes permit programs for water quality, point source pollutant discharges, ocean pollution discharges, and dredging or filling of wetlands or U.S. waters. The ACOE and the Environmental Protection Agency have permitting authority under the CWA.

Pursuant to Section 404 of the CWA, the ACOE has authority to issue permits regulating the discharge of dredged or fill material into U.S. waters. The U.S. Code of Federal Regulations, Title 33, Section 323 prescribes the policies, practices, and procedures the ACOE follows when reviewing permits to authorize the discharge of dredged or fill material. The intent of the CWA Section 404 program and its 404(b)(1) guidelines is to prevent destruction of aquatic ecosystems unless the action will not individually or cumulatively adversely affect the ecosystem.

### **National Environmental Policy Act**

Under the authority granted by the National Environmental Policy Act, when a federal agency is reviewing a permit application that may have environmental consequences, that agency must request a permit review from the Environmental Protection Agency, U.S. Fish and Wildlife Service and National Marine Fisheries Service.

The National Marine Fisheries Services has reviewed and commented on ACOE permit applications involving marine aquaculture activities in Florida waters. Those comments have focused on potential impacts to (1) species listed under the authority granted by the Endangered Species Act and (2) essential fish habitat under the authority granted by the Magnuson-Stevens Fishery Conservation and Management Act.



**Florida Department of Agriculture and Consumer Services**  
**Adam H. Putnam, Commissioner**

**Department of Army Permit  
Programmatic General Permit SAJ-99  
SAJ-2007-03138**

**Live Rock and Marine Bivalve Aquaculture – State of Florida**

The Florida Department of Agriculture and Consumer Services possesses an ACOE permit for all marine bivalve and live rock aquaculture in State of Florida waters with one exception. The permit does not cover marine aquaculture lease applications submitted to the Florida Department of Agriculture and Consumer Services after November 9, 2012 that are located in Endangered Species Act listed species critical habitat. The permit is for five years.

If a Floridian is interested in leasing sovereign submerged state lands from the State of Florida for marine aquaculture purposes, they must apply to the Florida Department of Agriculture and Consumer Services. If the location of that lease occurs within Endangered Species Act listed habitat, the department will assist the applicant in applying for the ACOE permit.

For the Panhandle and Big Bend region, the Endangered Species Act listed Gulf of Mexico sturgeon critical habitat is outlined in blue below.



*The information presented here is accurate as of September 19, 2013. Please contact Portia Sapp, Division of Aquaculture, at 850-488-5471 for updates or revisions.*