



Department of Environmental Conservation

Clean Water Act, Section 404
Dredge & Fill

Senate Finance Committee

Randy Bates, Director, Division of Water

March 17, 2023



SB 27 – 28th Legislature

REGULATION OF DREDGE AND FILL ACTIVITIES

- In 2013, the Legislature passed SB 27, which mandated: “The Department of Environmental Conservation . . . **shall** . . . take reasonable steps to assume primacy of the [404] program.”
- Passed 15-2 in the Senate and 25-13 in the House



Clean Water Act Section 404

- ▶ Regulates the discharge of dredged or fill material into Waters of the United States (WOTUS)





Examples of Activities Requiring 404 Permits



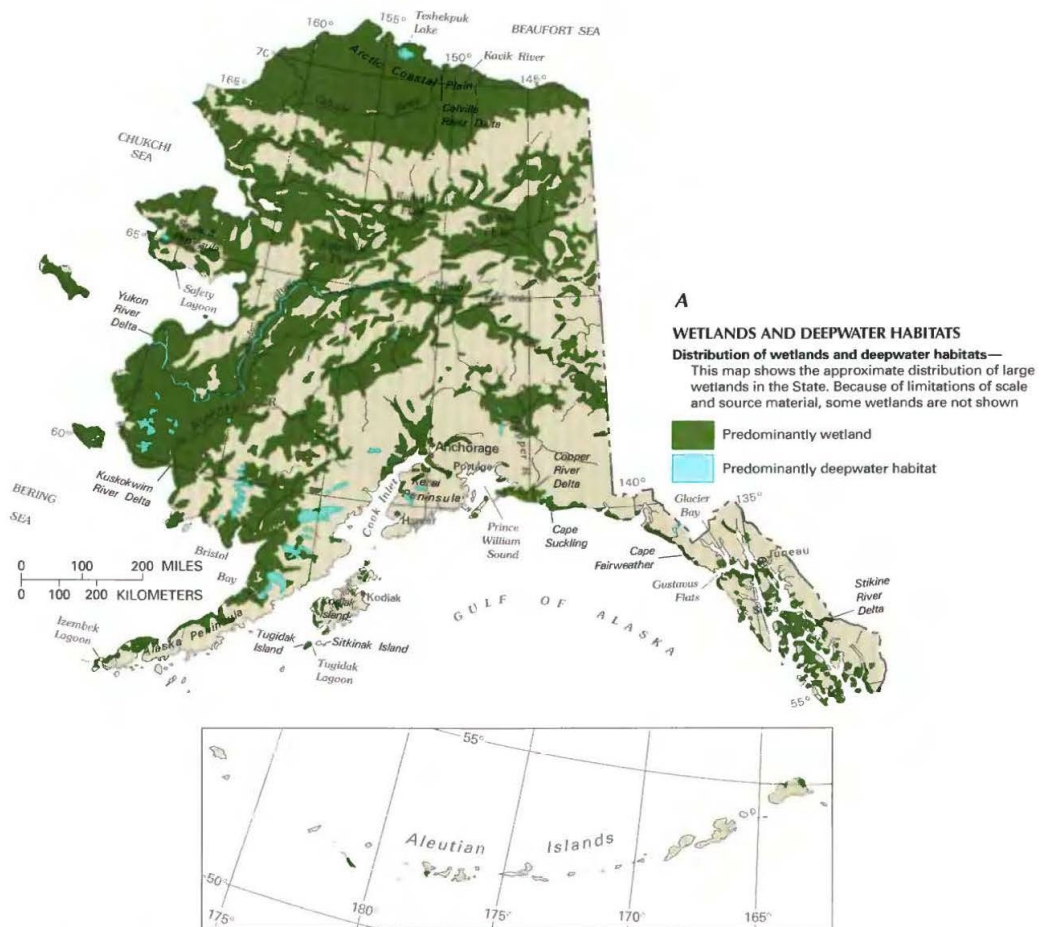
- Site improvement fill for residential, commercial, or recreational development
- Construction of revetments, breakwaters, levees, dams, dikes, and weirs
- Placement of riprap and fill material for roads, airports, or buildings
- Resource development projects



Alaska's Landscape

- ▶ Alaska's wetlands cover approximately 174 million acres, or about 43% of Alaska's surface area
 - ▶ May include tundra, permafrost, marshes, and bogs
 - ▶ Most construction and resource and community development projects require Section 404 permits





Source: U.S. Geological Survey
 National Water Summary- Wetland Resources: State Summaries (1996)



Steps Toward Assumption:

- ➡ FY 2023 – Alaska Legislature provided DEC with \$1 million to draft the feasibility report.

"It is the Intent of the Legislature that \$1 million is appropriated for the purpose of the Department of Environmental Conservation to complete a feasibility study on the assumption of primacy of Section 404 of the Clean Water Act. The report will be submitted to the four co-chairs of the Finance Committees and Division of Legislative Finance by February 1, 2023."



Clean Water Act Section 404 Dredge and Fill Program Assumption

Feasibility Report



Prepared for
Alaska Department of Environmental Conservation
Anchorage, Alaska

Prepared by Jade North, LLC
Anchorage, Alaska

January 25, 2023



<https://dec.alaska.gov/water/wetlands-404>



Feasibility Study Recommendation - Page 46

“Given the ***state’s rights*** under cooperative federalism, the importance of the natural environment and natural resources to the ***people and economy of Alaska***, the importance of ***wetland permitting*** in Alaska, and the potential for ***influencing resource protection and development*** policies, ***the recommended course of action is for the State of Alaska to assume the 404 program over assumable WOTUS.***”



Cost Analysis

- Program development (two years)
 - FY2024:
 - \$4,964.0
 - 28 FT Positions in FY 24
 - Training, equipment, and travel
 - Legal consultation, regulations development
 - Coordination with agencies
 - Assumption application development
 - FY2025
 - Approx. \$4,700.0 in FY 25 & beyond
 - Anticipates four additional positions



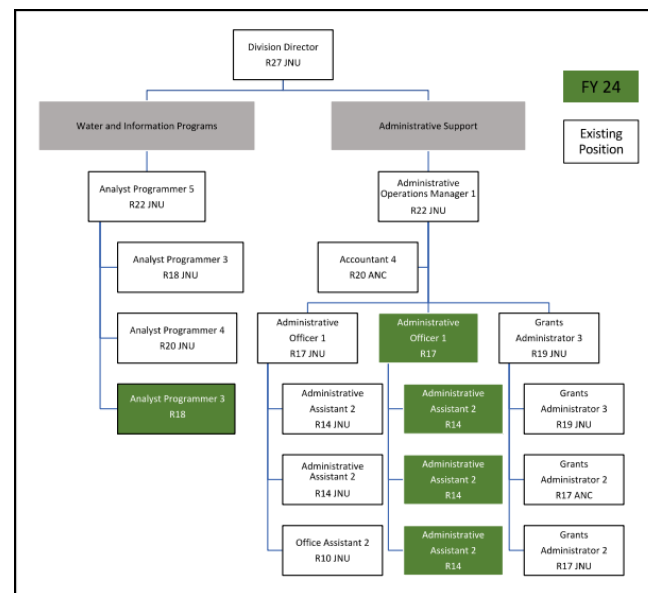
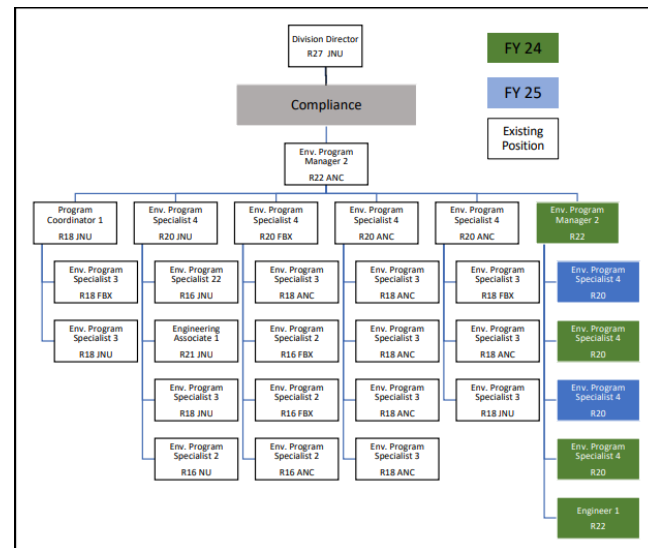
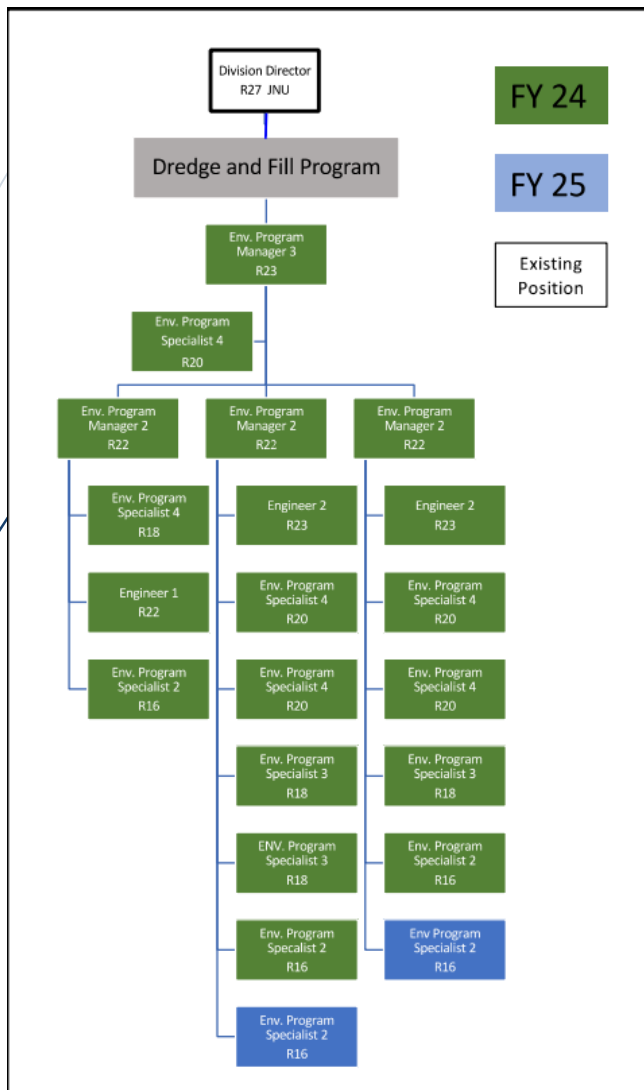
Workload & Staffing Analysis

- Corps completed 775 actions/year
 - Over a 5-year period (2017-2022)
 - 48 FTE = 16 actions/FTE/year

- Alaska could assume approximately 75% of the Corps' permitting responsibilities
 - Approximately 581 actions per year
 - 32 FTE = 18 actions/FTE/year



Staff Structure – as included in the Feasibility Report





Budget Breakdown – as proposed in the Governor's amended FY 2024 budget

FY2024				
1000 - Personal Services		Salary and		
	Range	Benefits Costs	Quantity	Totals
PX or Environmental Program Manager 3	23	\$160,997	1	\$ 160,997
Environmental Program Manager 2	22	\$151,852	4	\$ 607,408
Environmental Program Specialist 3/4 (budget at 4)	20	\$126,802	16	\$ 2,028,832
Environmental Program Specialist 2	16	\$101,724	3	\$ 305,172
Administrative Officer I	17	\$114,562	1	\$ 114,562
Administrative Assistant 2	14	\$90,160	3	\$ 270,480
Total Personal Services			28	\$ 3,487,451
2000 - Travel for technical staff		\$ 5,200.00	24	\$ 124,800
Total Travel				\$ 124,800
3000 - Contractual				
Allocated costs 6% of personal services			6%	\$ 209,247
Training for new technical staff		\$ 5,200.00	24	\$ 124,800
Contractor support				\$ 250,000
RSA to Department of Law				\$ 175,000
RSA to Department of Fish and Game				\$ 250,000
RSA to Department of Natural Resources				\$ 120,000
Total Contractual				\$ 1,129,047
4000 - Commodities				
1st year new employee costs		\$ 7,500.00	28	\$ 210,000
Office supplies		\$ 500.00	28	\$ 14,000
Total Commodities				\$ 224,000
FY2024 Total				\$ 4,965,298



Next Steps to Assumption

1. Obtain funding and hire staff
2. Prepare application to EPA, submit early 2025
3. Program approval mid-late 2025





Questions?

Legislative Liaison

Crystal Koeneman

907-465-5871

crystal.koeneman@alaska.gov

